

**U.S. DEPARTMENT OF ENERGY**  
**ENVIRONMENTAL MANAGEMENT ADVISORY BOARD**

**MEETING TRANSCRIPT**

Forestall Building, Room 1E-245  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585  
Friday, November 21, 2003

**ENVIRONMENTAL MANAGEMENT ADVISORY BOARD**  
November 21, 2003  
Summary Meeting Transcript

COMMITTEE CHAIR

- Mr. James A. Ajello, Reliant Energy Solutions

COMMITTEE MEMBERS

- Ms. Lorraine Anderson, Arvada City Council
- Dr. Dennis Ferrigno, C.A.F. & Associates, LLP
- Mr. John Quarles, Morgan, Lewis, and Bockius LLP
- Ms. Jennifer A. Salisbury, Private Consultant
- Mr. David Swindle, Kellogg, Brown and Root Government Services Inc.
- Mr. Thomas A. Winston, Ohio Environmental Protection Agency

EMAB EXECUTIVE DIRECTOR

- Mr. James T. Melillo

DOE PARTICIPANTS AND OBSERVERS

- Jim Bridgman, Alliance for Nuclear Accountability (ANA)
- Patty Bubar, DOE Associate Deputy Assistant Secretary for EM Office of Integration and Disposition
- Woody Cunningham, Consultant to Environmental Management
- David Geiser, DOE Office of Legacy Management
- Paul Golan, DOE EM Chief Operating Officer
- M.R. Griben, Consultant
- Colin Jones, BNFL Inc.
- Betty Nolan, DOE Office of Congressional and Intergovernmental Affairs
- Joe Nolter, Consultant to Environmental Management
- Jessie Hill Roberson, DOE Assistant Secretary for Environmental Management
- Vicky Soberinsky, DOE Office of the Assistant for Environmental Management, Senior Policy Advisor to the Assistant Secretary
- Shawn Terry, Inside Energy

EMAB STAFF

- Ms. Michelle Ashley, SYColeman
- Ms. Peggie Burke, SYColeman
- Ms. Debbie Durant, SYColeman
- Mr. Greg Evans, The RETEC Group Inc.
- Ms. Mary Kimbrough, DOE

**ADDITIONAL MATERIALS**  
Available Upon Request  
(202) 586-4400

ENVIRONMENTAL MANAGEMENT OVERVIEW

- EM Program Update (provided by Mr. Paul Golan)
- Overview of EM Acquisition Strategy (provided by Mr. Frank Sheppard)
- Briefing: Contracts Team (provided by Mr. James Ajello and Mr. David Swindle)
- Briefing: Metrics Team (provided by Dr. Dennis Ferrigno)
- Briefing: End States Team (provided by Mr. Tom Winston)

EMAB MEMBERS

- List of Members and Affiliations

**EXECUTIVE COURT REPORTERS, INC.**  
(301) 565-0064

TABLE OF CONTENTS

Public Meeting Opens	
Welcome Remarks	4
Meeting Objectives	5
Approval of November 2002 Meeting Minutes James Ajello, EMAB Chair	6
Remarks/Discussion Jesse Hill Roberson, Assistant Secretary for Environmental Management	8
EM Program Update Paul Golan, EM Chief Operating Officer	36
Overview of EM Acquisition Strategy Frank Sheppard, EM Special Assistant for Acquisition Management	89
Discussion of EMAB Project Team Report Findings Contracts Team - James Ajello and David Swindle	141
Metrics Team - Dennis Ferrigno	180
End States Team - Tom Winston	211
Board Business Approval of Recommendations to the Assistant Secretary	228
Public Comment Period James Ajello, EMAB Chair	231
Board Discussion Making the Board Report Recommendations "Actionable"	245
Additional Recommendations/Next Steps	278
Public Comment Period James Ajello, EMAB Chair	283

Next Meeting	286
Availability Calendars for Spring 2004:	
March/April/May	
James Ajello, EMAB Chair	
Public Comment Period	295
Adjournment	

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49

P R O C E E D I N G S

9:11 a.m.

**Welcome Remarks**

MR. AJELLO: Good morning, all. I'd like to call the meeting to order. It's the Environmental Management Advisory Board session. Thank you all for attending.

I'd like to first make some introductions. We have three new Board members, and two Board members who have resigned recently, and let me start with the new Board members in attendance.

Dave Swindle from Kellogg, Brown, and Root, KBR, Services, across the table from me.

Jennifer Salisbury, who has been a member of the Board.

Also a new member is Dennis Ferrigno, Dr. Ferrigno from CAF & Associates. And our third new member of the Board, Lorraine Anderson, is with us this morning from the Arvada City Council.

Not attending today is John Quarles, who's away on a business commitment, and Tom Winston, who I expect any moment to arrive.

Two members of our Board who have resigned recently are John Moran and Dr. Ray Loehr, who've stepped down for personal and business reasons, and so that sort of gives you a background of who is in attendance today.

The -- as you might know -- and Tom Winston's just joined us. Welcome.

MR. WINSTON: Welcome. I won't even tell you about my morning.

MR. AJELLO: Okay. Just for your information, bios of the Board members are contained on the EM website, so I won't go into any background information about the members. So that's available for your perusal.

1 And also joining us this morning will be  
2 Jessie Roberson, our Assistant Secretary from  
3 Environmental Management. She stepped out for a  
4 moment, but I expect her back in, in a few minutes.  
5

### 6 Meeting Objectives 7

8 MR. AJELLO: What I'd first like to do this  
9 morning, in addition to welcoming you, is to talk about  
10 today's agenda and meeting objectives.  
11

12 We're going to review some committee reports.  
13 Some of you who have tracked us over time know that  
14 we've been working on a few important topics at the  
15 Assistant Secretary's request, and we'll review those  
16 this morning. Those will involve matters like  
17 contracts, metrics, and end state, and the Board will  
18 be making some presentations. The Board will also have  
19 some recommendations to be set forth to the Assistant  
20 Secretary.  
21

22 We expect to also have an open discussion on  
23 how to make the recommendations and the details in the  
24 reports what we're fond of calling "actionable," so  
25 that will be a part of today's discussion as well. And  
26 in that regard a number of the DOE executive teams in  
27 the EM Program will be here.  
28

29 And, Jessie, I just introduced you. I said  
30 you'd be back in a minute. You're right on cue, as a  
31 matter of fact.  
32

33 So that will give you a sense of today's  
34 meeting, of course, and we expect to, as is always the  
35 case, have ample opportunity for public comment and  
36 dialogue. So I would invite you to do that, okay, so.  
37

### 38 Approval of November 2002 Meeting Minutes 39

40 MR. AJELLO: The first order of business this  
41 morning is to approve, if possible, the November 2002  
42 meeting minutes. And if there are no changes to the  
43 meeting minutes from the last meeting, then we should  
44 discuss them. If not, I will call for a motion to  
45 approve the minutes of November 21st, 2002, which have  
46 been provided to the Board previously.  
47

48  
49 Are there any comments, or would any of the  
50 members like to call for a vote?  
51

1 PARTICIPANT: Let's have a vote.  
2  
3 PARTICIPANT: Second.  
4  
5 MR. AJELLO: Okay. The motion having been  
6 moved and seconded, all in favor?  
7 (There was a chorus of "ayes.")  
8  
9 MR. AJELLO: Let the record show that the  
10 minutes were approved by unanimous consent.  
11  
12 The first matter on our agenda this morning,  
13 besides the minutes are some remarks and discussion  
14 that we would initiate with Jessie Roberson, our  
15 Assistant Secretary.  
16  
17 Oh, sorry. Jim Melillo our Executive  
18 Director said that we're to fill out our lunch cards as  
19 soon as possible.  
20  
21 (Laughter)  
22  
23 MR. AJELLO: Jessie, you've been usurped by  
24 the lunch menus.  
25  
26 (Laughter)  
27  
28 ASSISTANT SECRETARY ROBERSON: I understand.  
29 I understand the lineup here.  
30  
31 MR. AJELLO: Now, Jessie. Thank you.  
32  
33 **Remarks/Discussion**  
34  
35 ASSISTANT SECRETARY ROBERSON: Thank you, Jim.  
36 I think this works fine.  
37  
38 First of all, welcome again to the Department  
39 of Energy. And let me offer a special welcome to  
40 Lorraine Anderson, Dennis Ferrigno, and Dave Swindle,  
41 and thank you all for your willingness to work with us  
42 on this venture in accelerating and improving our  
43 operation of environmental clean-up programs.  
44  
45 We have made substantial progress in many  
46 areas since the EMAB met last -- in its last formal  
47 session in November of 2002. We're realizing that for  
48 the first time the goal of completing EM's current  
49 scope is within our reach.  
50  
51 It's instructed to continually remember the

1 enormous challenge that we face. The EM Program is  
2 responsible for safely disposing of 88 million gallons  
3 of radioactive liquid waste, 2.5 thousand metric tons  
4 of spent nuclear fuel, 135,000 cubic meters of  
5 transuranic waste, and more than a million cubic meters  
6 of low-level waste.  
7

8 And well -- and since completion of the top-  
9 to-bottom review and through the implementation of the  
10 accelerated clean-up program, the EM Program now  
11 anticipates that it can indeed complete its mission by  
12 the year 2035, at least 35 years earlier than  
13 originally anticipated. This means that the risk to  
14 the workers, our communities, the public and the  
15 environment will be eliminated a generation earlier  
16 than the previous plan.  
17

18 Accelerating clean-up in this manner will  
19 protect public health and safety and the environment.  
20 This is a wise investment for our children's future and  
21 one that we must be diligent in pursuing and realizing  
22 in our lifetime.  
23

24 I'm grateful for the EMAB's efforts to review  
25 the new acquisition strategy we developed and are  
26 currently implementing. We are aggressively using and  
27 managing the acquisition process as one key tool to  
28 drive contract performance. We're evaluating both the  
29 performance and design of every contract in this  
30 program. And as opportunities become clear, we're  
31 taking corrective action.  
32

33 The draft interim report to the EM the EMAB  
34 did on metrics and the contracting that the members of  
35 those teams shared with me identified some factors that  
36 we hadn't considered. I'm looking forward to receiving  
37 the entire package of EMAB recommendations so that we  
38 can evolve those into actionable results.  
39

40 But this is a start, not a finish. I  
41 envision a continuing emphasis on the overhaul of EM's  
42 entire acquisition process, including our methodology  
43 for formulating acquisition strategies, for developing  
44 requests for proposals, for identifying performance-  
45 based incentives, and how we provide oversight of the  
46 contractors' performance.  
47

48 These are continuing areas where I could  
49 benefit from your expertise individually and  
50 collectively. Perhaps you might also review along the  
51 same lines some selected case studies at some of our  
sites. For instance, I might suggest a case study on

1 risk-based in-state process at one of our sites, and  
2 possibly operational safety performance as a case study  
3 at one of our sites.  
4

5 These are, in my view at this point, two of  
6 the most important and critical elements of improving  
7 this program. They're often prone to criticism but  
8 less often truly understood. I know we can expect due  
9 diligence and an open mind from this Board, so I  
10 encourage you to consider such a venture.  
11

12 Our acquisition strategy focuses on five  
13 areas. We're unbundling work into smaller packages  
14 where it makes sense. We're driving innovation and  
15 improved cost performance through the use of small and  
16 smaller businesses, complementing the unbundling  
17 strategy. We're actively promoting innovation in our  
18 clean-up work through the competitive process where  
19 improved performance is necessary. We're extending our  
20 modifying contracts where excellent performance has  
21 clearly been demonstrated. And last, we are modifying  
22 and changing our acquisition processes to support these  
23 strategies in order to allow them to be successfully  
24 implemented.  
25

26 As we discussed at the last meeting, to  
27 complement these steps we've launched the Contract  
28 Management Advisory Council to review our contracts  
29 from a more corporate perspective. Our goal is to  
30 ensure that the lessons learned, both good and bad,  
31 from all of our endeavors are institutionalized in our  
32 contracts and business practices and that those  
33 philosophies that do not support accelerated risk  
34 reduction and clean-up.  
35

36 And I'm looking forward to hearing more from  
37 you on your thoughts as a result of your venture.

38 I would also like to request your counsel on  
39 some of the organizational challenges and human capital  
40 strategies we are currently implementing. Meaningful,  
41 lasting reform must not only be the result of  
42 leadership and commitment, which we certainly believe  
43 that we have in this program and in this department,  
44 but must also find its way into the very core of the  
45 organization to be sustained.

46 This requires that organizations challenge,  
47 hold accountable, and reward top-performing employees.  
48 Our Human Capital Reform Initiatives focus on building  
49 a high-performance culture that attracts and retains  
50 talented managers and staff to deliver sustained  
51 performance excellence.

1  
2 Individual performance management is being  
3 fully integrated into EM's organizational goals.  
4 Executives are being held accountable for achieving  
5 strategic program objectives, fostering innovation, and  
6 supporting continuous improvement throughout the entire  
7 program.  
8

9 As a result, we are implementing a human  
10 capital strategy which over the course of the past two  
11 years has produced some dramatic results. On December  
12 1st, we will move to a new management structure in the  
13 EM Program. We examined -- we spent two years,  
14 actually, examining the organizational structure in  
15 light of our mission. The new organization's structure  
16 supports and facilitates the objective of accelerating  
17 risk reduction and clean-up and improving  
18 organizational effectiveness.  
19

20 We developed an Executive Mentoring Program  
21 for our senior executives with the objective of  
22 creating a cadre of executives drawing from former  
23 successful DOE leaders who have been demonstrated well  
24 rounded and preparedness to effectively lead  
25 irrespective of the position to which they might be  
26 assigned.  
27

28 Last year, we implemented this initiative at  
29 the Carlsbad office. This year we'll be implementing  
30 it at Savannah River and Hanford sites.  
31

32 We also established a court closure cadre at  
33 the Rocky Flats and Ohio Field Offices for the Federal  
34 employees. As our closure sites complete their  
35 accelerated closure missions and continue the rapid  
36 pace of D & D and complete much of the regulatory  
37 process, staffing requirements at closure sites are  
38 being significantly reduced. Much -- I mean, not  
39 necessarily that we're driving it at the pace that it's  
40 occurring, but employees understand that the good news  
41 is completing work. The bad news is the work ends.  
42

43 The Department first established a closure  
44 cadre that captured skills required for closure, and  
45 that has been completed. And that cadre is implemented  
46 and is included as a leg of EM headquarters. It's the  
47 first time the Department has actually used the concept  
48 of mobility agreements.  
49

50 We also developed a succession plan. In  
51 2004, several new senior executive development

1 opportunities are anticipated throughout the EM  
2 complex, including more than 10 executive opportunities  
3 at headquarters. These positions will form the  
4 foundation for EM leadership succession and will afford  
5 the organization an opportunity to enhance the  
6 diversity of the EM work force at the senior levels.  
7

8 In addition to our human capital strategy, we  
9 have implemented a Program and Project Configuration  
10 Control Board that baselines a number of key critical  
11 program elements. Included are performance management  
12 plans, corporate performance metrics, contract  
13 performance measures and incentives, and life cycle  
14 costs.  
15

16 In addition, we've completely restructured  
17 our financial management system. Strict change control  
18 and monitoring of these key elements will facilitate a  
19 high confidence level that the goals and directions of  
20 the Accelerated Clean-Up Initiative are being met and  
21 maintained.  
22

23 Overall, we're becoming a flatter and more  
24 effective organization. We want not just to put into  
25 place performance-based contracts but to also solidify  
26 performance-based organization for all who choose to  
27 have a role in implementing this program.  
28

29 We've restructured the EM organization to  
30 further this effort, and as that structure is  
31 implemented, I expect there will be additional lessons  
32 that we can learn from your private sector experience  
33 as well.  
34

35 At our last meeting, I asked the EMAB to  
36 review the performance measures we were putting in  
37 place, as well as our new acquisition strategies. And  
38 I know you will be discussing this, this evening and  
39 afternoon. I'm kind of looking forward to hearing that  
40 discussion myself.  
41

42 To borrow a favorite term from Mr. Ajello, I  
43 would ask that you not only provide me with  
44 recommendations but also consider how to make those  
45 recommendations actionable.  
46

47 I look forward to working with you to achieve  
48 this goal. We're at a turning point for this program,  
49 and we must not lessen our resolve. And I thank you  
50 graciously for your commitment to the program. Thank  
51 you.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

MR. AJELLO: Jessie, thanks very much. That's quite a rundown. If we think of all the things that you've targeted and accomplished in the last year, it's been quite remarkable. At least speaking for myself, I can say that there's a lot on your list of things to do.

So let's take a few moments if -

ASSISTANT SECRETARY ROBERSON: Absolutely.

MR. AJELLO: If you will and either clarify or discuss a number of the items that Jessie raised.

Anyone like to ask a question or make a comment with respect to Jessie's comments?

ASSISTANT SECRETARY ROBERSON: Yes, sir.

MR. SWINDLE: Jessie, you mentioned the mobility agreements. I guess, could you elaborate a little bit more in terms of which employees are eligible for that and the process whereby let's say candidacy or how you're implementing that overall.

ASSISTANT SECRETARY ROBERSON: Okay. What we're actually doing what we started about two years ago was to do an assessment of the competencies. It specifically focused on technical competencies, although the business operations we can use the same concepts, and are in some of the business areas.

But if you, if we focus on Rocky Flats, and we're also doing the same thing at Ohio, there were certain experiences gained during the -- the progress of those closure projects that we now know are going to be critical at the other sites we're already seeing, for instance, at Hanford. And the specific tasks like plutonium stabilization and packaging, safeguards of security, that the infrastructure in the program wasn't built to understand and address some of the technical changes that have to occur as you do work.

And so those employees that have been key in helping us find our way through that we want to capture because we know we're going to have to repeat it at least three more times, if not more.

MR. SWINDLE: So this gives you a less --

1 ability to transfer and do lessons learned.  
2  
3 ASSISTANT SECRETARY ROBERSON: Absolutely.  
4  
5 MR. SWINDLE: Federal work force.  
6  
7 ASSISTANT SECRETARY ROBERSON: It gives us  
8 the opportunity to transfer lessons learned, and I find  
9 the best way to transfer lessons learned -- writing  
10 documents is helpful, but we do have a culture where  
11 each location has to learn its own lessons. So I find  
12 the best way to transfer lessons learned is actually  
13 through the human vehicle, the people who can explain  
14 it best. So we're doing both -- we're trying to do  
15 both.  
16  
17 MS. ANDERSON: Well, Jessie, I see that  
18 you've done a good job of transferring your success  
19 from Rocky Flats to a whole environmental management  
20 organization, and I think that's good.  
21  
22 ASSISTANT SECRETARY ROBERSON: Thank you.  
23 I'm actually pretty excited. We have such wonderful  
24 opportunities in front of us at Oak Ridge, which has  
25 kind of been in the background of the environment --  
26 Environmental Management Program. I think we have a  
27 great project there and a great opportunity.  
28  
29 And the lessons -- interestingly enough, the  
30 logistics may be different, the state may be different,  
31 but the lessons that we're learning apply. And there  
32 are lessons we're learning at some of the other sites  
33 that we're transferring to the closure sites as well,  
34 too. But I think it just requires intense management  
35 attention and no one person can do it. This EMAB is an  
36 important instrument in that as well.  
37  
38 DR. FERRIGNO: Jessie, you mentioned the  
39 Configuration Control Board with the organization.  
40 Could you comment on, maybe, who the players are and  
41 what function you see, when they're going to get  
42 involved, what they're going to do? I know you  
43 mentioned a little bit about that.  
44  
45 ASSISTANT SECRETARY ROBERSON: The  
46 Configuration Change Control Board has actually been up  
47 and operating for about a year. We have a policy  
48 directive that describes how it's going to operate. I  
49 think it is structured in that all changes to our  
50 baseline, both project and life cycle, have to be  
51 reviewed and approved through that Configuration

1 Control Board.  
2  
3 The goals are not to pretend that there  
4 aren't going to be changes as we learn things but to  
5 always have an understanding of what changed and why.  
6 And it is also another vehicle for distributing lessons  
7 learned.  
8 And so the way it is set up is a two-year  
9 term. And we reestablish it on that cycle. It is not  
10 they're not structured jobs in the organization because  
11 that would simply make it a bureaucratic process. So  
12 we will pick executives, including one from the field.  
13  
14 Our directive requires a field participant as well,  
15 too.  
16  
17 And it's simply a commitment that we ask  
18 those executives to make. And over this last year,  
19 it's proven to be really essential in our operation.  
20  
21 MR. WINSTON: Morning, Jessie.  
22  
23 ASSISTANT SECRETARY ROBERSON: Good morning.  
24 How are you doing?  
25  
26 MR. WINSTON: Good to see you again. You had  
27 mentioned possible opportunities for case studies. One  
28 was on risk-based end states, another was on  
29 operational safety. And I'm sure Jim has been keeping  
30 you abreast of the work of our subcommittees I guess I  
31 would call them. Jennifer and Lorraine and I have been  
32 working with Dave on risk-based end states.  
33  
34 My question to you is, what would you hope to  
35 learn -- you know, are there specific things you would  
36 hope to learn from a case study? And the reason I'm  
37 asking that is, each site is so different in terms of  
38 its technical issues, its history of decision-making,  
39 and even the dynamics of all the involved parties, like  
40 us regulators, stakeholders, or whatever.  
41 So I was wondering if you've thought of the  
42 kinds of things you would hope to get out of a case  
43 study, not just, you know, at, you know, at Site X it  
44 was done well, but what crosscutting types of issues  
45 you might be looking for out of that case study?  
46  
47  
48 ASSISTANT SECRETARY ROBERSON: It's an  
49 excellent question, and I have to tell you, I actually  
50 don't have a list of specific things. I actually think  
51 the fact that we don't have an understanding of this in

1 and of itself is reason enough to venture into this  
2 territory.

3  
4 Some of the key reasons that I'm interested  
5 in moving ahead in this and I recommended a case study  
6 is there's a tremendous amount of skepticism, that we  
7 must be looking for something that is hidden or, you  
8 know, we have some motive. It truly is an effort to  
9 try to understand what we're doing and why we're doing  
10 it. I mean, there's decision-making that occurs and  
11 the parties that make those decisions are responsible  
12 for those decisions.

13  
14 I'll tell you one specific area I'm  
15 particularly interested in, and I've seen through our  
16 corporate projects that we did not have adequate  
17 infrastructure to guide our own employees in this area,  
18 and it's groundwater management long-term. That is  
19 clearly an area that we have to deal with at most of  
20 our sites. And even the federal employees approach it  
21 dramatically different. It doesn't -- I'm not saying  
22 that there's a cookie cutter way to deal with it, but  
23 just operationally approach it very differently.

24  
25 And quite frankly, it is, again, another  
26 forum for sharing lessons learned. Everything that  
27 we're pushing in these two tasks is to promulgate  
28 lessons learned. There's no way to do it other than to  
29 just do it. And so that more than anything else. One,  
30 to create an understanding and credibility for us in  
31 how we're doing our job, but two, also to promulgate  
32 lessons learned from one site to the other.

33  
34 MR. WINSTON: And maybe -

35  
36 ASSISTANT SECRETARY ROBERSON: So that's one  
37 particular area.

38  
39  
40 MR. WINSTON: And maybe that calls for case  
41 studies rather than case study.

42  
43 ASSISTANT SECRETARY ROBERSON: The reason I  
44 recommended a case study and recommended a site like  
45 Hanford is because it has a bit of everything and I  
46 mean, I don't know that you can do justice to five case  
47 studies. I mean, you can review documents, but I think  
48 it may require more than reviewing documents.

49  
50 So that's why I recommended at least starting  
51 with one case study, but it's really up to the Board.

1  
2 MR. WINSTON: And the thought there, you  
3 know, we could focus on process, we could focus on  
4 technical issues. So there's a lot of -- a lot of ways  
5 in which we might decide to proceed in that direction.  
6

7 ASSISTANT SECRETARY ROBERSON: Absolutely,  
8 absolutely. I think you'll find it's a pretty big  
9 mouthful, so.

10 MR. WINSTON: Yes, we have.

11 ASSISTANT SECRETARY ROBERSON: Yes.

12  
13 MR. WINSTON: I have, actually, a little  
14 different issue. You really have done an excellent job  
15 of aligning EM and really the Department for  
16 acceleration. And that's I think the difference that  
17 you've brought to EM.  
18

19  
20 And one thing is -- that there's positives  
21 and negatives with anything, and there's nothing really  
22 negative about acceleration, but there's been a couple  
23 concerns. One, will safety suffer. And I was very  
24 pleased with Bob Card's comments at the recent  
25 intergovernmental meeting where he said we're actually  
26 improving on safety despite the fact that there is  
27 more.  
28

29  
30 Another area that possibly could suffer is  
31 stakeholder interaction because the Department's moving  
32 so quickly. And I've talked to some people in the  
33 field who have kind of said sort of the same thing.  
34 We've stumbled a few times, and part of that is we're  
35 moving much, much quicker.  
36

37 How do you balance those? What direction do  
38 you give the field especially in that regard?

39 ASSISTANT SECRETARY ROBERSON: It's on  
40 operational safety. It actually has been quite  
41 pleasing to see the improvement in operational safety  
42 in the program. But I think it's not that it just  
43 happened on its own. I think we have a cadre of  
44 employees, contractor and federal, who want that. And  
45 when they can do the work that further improves or  
46 reduces the risk to the environment, they will do it  
47 and they will do it safely.  
48

49 So it's been quite pleasing to us, but it is  
50 not something that's come without a tremendous amount  
51 of focus and energy. We are deploying people and

1 taking people and borrowing people from all over the  
2 complex to help at different sites, and we're trying to  
3 stay ahead of any trends where we're reacting on a  
4 daily basis. It's not happening by itself. It has  
5 taken a tremendous effort on the part of the work  
6 force, both contractor and Federal. And it -  
7

8 MR. WINSTON: Given the amount of work, that  
9 actually is very remarkable.

10 ASSISTANT SECRETARY ROBERSON: It actually -

11 MR. WINSTON: Congratulations.

12 ASSISTANT SECRETARY ROBERSON: It actually --  
13 and I think we all need to be proud of that because I  
14 didn't do it. Our folks at our sites are the ones that  
15 deserve the credit. But it is a tribute to the  
16 capability and commitment of the work force throughout  
17 the complex, and so I applaud them.  
18

19 It was probably most stunning to actually set  
20 back at the end of the summer with Bob Card -- and do a  
21 quarterly safety review. Although we look at any  
22 occurrences or incidents on a daily basis, any issues.  
23 We spend all of our time worrying about the stuff  
24 that's not going right or it looks like it might not go  
25 right. So Bob actually stunned me when he said, oh my  
26 goodness, just look at how much more work is getting  
27 done and the safe -- the indicators -- safety  
28 indicators or factors improved.  
29

30 So I was caught off guard because we just --  
31 always spend our time worrying about what's not going  
32 right and tend not to have the time to step back and  
33 look at what is. And quite frankly, that's the mode we  
34 need to stay in because it requires ongoing diligence  
35 on all parties' part.  
36

37 I actually shudder to say that I'm impressed  
38 because tomorrow I'll be spending my time -  
39

40 MS. ANDERSON: On a problem.

41 ASSISTANT SECRETARY ROBERSON: On a problem.  
42 So it requires diligence, it requires  
43 commitment, and it requires us not celebrating until we  
44 complete the task, not while it's in process.  
45

46 On the stakeholder interaction, I think we  
47 have stumbled, and one of the things that we probably  
48

1 haven't done as well is spent enough time with our  
2 managers on the philosophical alignment. I think to  
3 some degree we've identified initiatives and they've  
4 overlaid the way that we've done business rather than  
5 cause us to try to work with the parties to figure out  
6 how to move together.

7  
8 And so we're spending more and more time on  
9 that. We actually have our field managers in town the  
10 first week in December. We're going to spend more time  
11 with our management team because it's a disservice to  
12 them and a disservice to the stakeholders. It's not  
13 our intent to shut anyone out, but I know and Lorraine  
14 knows this, as well as anybody does, and you yourself  
15 know it pretty well, that alignment becomes more  
16 important, not less important.

17  
18 But we have to be able to move together.  
19 It's not a choice between moving and not moving. We  
20 have to be very effective and efficient at moving  
21 together.

22  
23 MR. WINSTON: Thank you.

24  
25 MS. SALISBURY: Jessie, I'm glad Tom asked  
26 you about the risk-based end state because I think  
27 there is a lot of skepticism, you're right.

28  
29 I've got a question about the organizational  
30 challenges that you mentioned. Is there something that  
31 you're thinking about that the Board could help you  
32 with there specifically?

33  
34 ASSISTANT SECRETARY ROBERSON: Well,

35  
36 MS. SALISBURY: We talked about this last  
37 time, and then -

38  
39 ASSISTANT SECRETARY ROBERSON: Yeah.

40  
41 MS. SALISBURY: We couldn't ever get anything  
42 rolling.

43  
44 ASSISTANT SECRETARY ROBERSON: It's an  
45 interesting challenge before us, and that is ensuring  
46 that we have a work force that is understanding, we're  
47 communicating with and contributing to the goals of the  
48 program because of the type of work that we do. It  
49 should be very project-specific. People are engaged in  
50 a project; their goal should be to complete that  
51 project. And we should be able to demonstrate that

1 there's some reward to doing that.  
2  
3 That isn't the normal system. I mean, we're  
4 trying to invent this, and we're getting a tremendous  
5 amount of support from our HR professionals as well as  
6 the Office of Personnel Management(OPM). We've  
7 actually got a small team from OPM working at Rocky  
8 with us right now, and we're going to be doing the same  
9 thing at Ohio.  
10  
11 So we're actually venturing because it's the  
12 program that we do is much more in line with what you  
13 would see an environmental a private sector  
14 environmental remediation company do. It's not a  
15 lifetime program that's level always. It start, carry  
16 an activity out, complete it, and hopefully we're able  
17 to move people to other activities that benefit from  
18 that expertise.  
19  
20 So we're establishing an infrastructure for  
21 such a program. And even though there are certainly  
22 private -- there's certain private sector experience in  
23 how to get and retain professionals that are motivated  
24 in that kind of environment, we are learning and  
25 establishing it.  
26  
27 So I think probably the best way to say it is  
28 in bringing your experience into play for us, helping  
29 us see that, because we just can see what's happening  
30 in private industry but not everything fits within the  
31 Federal system. So there has to be some adaptation of  
32 those things that make the most impact.  
33  
34 MR. AJELLO: Jessie, I had a question about  
35 the Contract Management Advisory Council. I gather  
36 from your comments this minute that this is all about  
37 lessons learned, too. But I also get the impression  
38 from my reading of what you're doing that it's getting  
39 underway, obviously. Is this kind of a best practices  
40 and let's learn from the last deal or transaction that  
41 we've done, the last RFP, and so forth? Maybe you can  
42 take us to that next level and tell us what you think  
43 their mission is.  
44  
45 ASSISTANT SECRETARY ROBERSON: Well, you said  
46 it. I mean, their mission is to help promulgate the  
47 best practices and to integrate our work activities,  
48 our contracting practices, and quite frankly, to some  
49 degree, they even get involved in our human resource  
50 decisions and how they're applied to the work.  
51

1           It is no one person. The reality is, we have  
2 to have a team of people who have the view of the  
3 broader system and the ability to affect it. A field  
4 manager in one site simply doesn't have the time to sit  
5 back and try to figure out what's happening every place  
6 else. So that board's primary function is both  
7 configuration control, a record of decision-making, and  
8 integration process.

9  
10           MR. AJELLO: How do you deal with what must  
11 be the inevitable pushback around kind of a  
12 superstructure organization that comes in to help carry  
13 out a mission at a certain location which has been  
14 previously owned by the management of that location?  
15 Do you find that there's a certain degree of conflict?  
16 And if so, how do you get over that?

17  
18           ASSISTANT SECRETARY ROBERSON: Ooh. I guess,  
19 you know, people ask me this. I don't see any  
20 conflict. No, I'm just kidding.

21  
22           MR. AJELLO: When you don't see conflict, you  
23 have a problem.

24  
25           ASSISTANT SECRETARY ROBERSON: Yeah. No.

26  
27           (Laughter)

28  
29           ASSISTANT SECRETARY ROBERSON: It is a matter  
30 of the right leadership. You can't ignore it. Quite  
31 frankly, I think you could probably hear from our field  
32 managers where that conflict seems to be -- where there  
33 is no conflict or the conflict seems to be  
34 overwhelming, that's where we spend the most time. And  
35 so I spend a lot of time with our managers -- we really  
36 do -- in trying to make sure they understand what we're  
37 trying to do. And I think we have a supportive  
38 leadership team.

39  
40           But we are implementing initiatives that are  
41 new and foreign. And they have huge organizations  
42 through which to disseminate those. And we don't just  
43 send them a letter and say "do." We actually deploy  
44 people all the time.

45  
46           Paul just got back from Savannah River. He  
47 probably spends a third to half of his time in the  
48 field. My goal is to make the EM headquarters a mobile  
49 organization and recognizing that our job is to spend a  
50 large percentage of our time out where the work is and  
51 become personally involved, not telephoning.

1  
2           So I -- again, I see no way to do it other  
3 than to jump in and do it. And I make -- I'm available  
4 to our managers. I talk to most of them on a routine  
5 basis within a week. I talked to three last night.  
6 For those that are on the West Coast, my work with them  
7 starts at about five, and I'm usually talking to them  
8 until 10 or 11. To be accessible, I think, is -- is  
9 most importantly so that they don't feel like we're  
10 pushing actions out to them and not going to support  
11 them.

12  
13           Try to show that we are part of a team. It's  
14 one organization. It's one mission dispersed across  
15 multiple states, but we're one team.

16  
17           MR. AJELLO: The field and headquarters  
18 dynamics are pertinent and relevant to every  
19 organization that I've ever worked in, and I always see  
20 that as an interesting area. One of the ways that  
21 we've found in my company to diffuse some of that --  
22 first of all, you don't want to diffuse all of it  
23 because there's a lot of creative tension that comes  
24 out of those things that are healthy.

25  
26           But if you have the same sorts of pride  
27 objectives or reward objectives that everybody's  
28 aligned on, then that tends to be the goal as opposed  
29 to the tension that's created by having some of those  
30 best practices applied. So it sounds like you're in  
31 that direction, too.

32  
33           ASSISTANT SECRETARY ROBERSON: And we do  
34 that. We operate from the same set of value metrics.  
35 We also try to pull issues in. I think the thing that  
36 agitates that relationship is when headquarters only  
37 deals with the good news and leaves the bad news for  
38 the field. As I said, we believe it's our job to deal  
39 with the bad, you know, the bad news sometimes. So  
40  
41 we're often pulling problems in to try to help solve  
42 them.

43  
44           Now, not everybody likes that. But I think  
45 that's our obligation.

46  
47           MR. SWINDLE: Jim, just one other question.

48  
49           MR. AJELLO: Yes, sir.

50  
51           MR. SWINDLE: Jessie, you know, following

1 back up on your remarks here this morning have really  
2 been focused on the human capital issues you described.  
3 As you've implemented the new Human Capital  
4 Initiative, and I know for several years the retention,  
5 the -- getting the right skill set, program management,  
6 and the like has been a key objective for you. Have  
7 you had any hard data in terms of let's call it your  
8 satisfaction survey? But again, looking at the morale  
9 of the staff as you've implemented this, stabilized the  
10 organization, that shows that things are in fact, I  
11 guess, proving so you do achieve the objectives you  
12 were describing earlier.

13  
14 ASSISTANT SECRETARY ROBERSON: The there was  
15 a survey done about a year and a half ago that there  
16 was a specific EM element. It was really, it was a  
17 DOE-wide initiative.

18  
19 MR. SWINDLE: Right.

20  
21 ASSISTANT SECRETARY ROBERSON: And really,  
22 you know, I say corrective actions, but actions taken  
23 to try to affect that. There hasn't been a follow-up  
24 done yet, but there is discussion in DOE about such a  
25 follow-up.

26  
27 But we haven't actually carried out such a  
28 survey customized uniquely to EM.

29  
30 MR. SWINDLE: Given the unique mission and  
31 nature, that's at some point

32  
33 ASSISTANT SECRETARY ROBERSON: That's a good  
34 idea.

35  
36 MR. SWINDLE: I think as you stabilize down,  
37 I think in this dynamic environment the Department is  
38 facing and EM is facing with the expectations, that'll  
39 -- that has some -- can have a very positive impact.

40 ASSISTANT SECRETARY ROBERSON: That's exactly  
41 right. One of the things that there are, obviously, a  
42 host of areas where we do more to aid ourselves in that  
43 area. One of them is to really be more visible about  
44 the contributions that -- at the individual sites.  
45 There's just been some amazing accomplishments.

46  
47 Paul actually keeps -

48  
49 MR. AJELLO: We're going to go through that  
50 today.

51

1 ASSISTANT SECRETARY ROBERSON: You're going  
2 to go through it today. We keep an active list that he  
3 updates, I don't know, weekly or monthly.  
4

5 PARTICIPANT: (Off mike)  
6

7 ASSISTANT SECRETARY ROBERSON: Yeah. And  
8 it's a pretty long list of accomplishments that our  
9 folks are making happen. Real physical environmental  
10 improvement. I mean, not producing documents or, you  
11 know, executing processes. Real physical improvement  
12 for the communities and for the environment. And we --  
13 again, we spend so much of our time trying to deal with  
14 the problems, we tend to overlook that. And people  
15 need that reinvestment because that's the thing that  
16 builds more commitment and motivation in doing the  
17 work. So it seems like a soft thing, but it's a real--  
18

19 MR. SWINDLE: It's very real.  
20

21 ASSISTANT SECRETARY ROBERSON: Very real.  
22

23 MR. SWINDLE: Thank you.  
24

25 MR. AJELLO: Any other thoughts or questions  
26 for Jessie?  
27

28 (No response)  
29

30 MR. AJELLO: Jessie is going to be with us  
31 intermittently throughout the day, so I would expect  
32 we'll have more opportunity to engage her in  
33 conversation.  
34

35 So thank you very much. It was a very good  
36 start and a good overview of what's gone on in the  
37 program. It's, I think, apparent to all of us that  
38 there are a couple of -- three or four themes here.  
39 Big things are happening, so that's the segue for me.  
40

41 All right. Next on the agenda is an EM  
42 program update. Paul Golan has joined us. He is the  
43 chief operating officer of the EM Program.  
44

45 Paul, we welcome you. Thank you very much  
46 for spending time with us this morning.  
47

#### 48 **EM Program Update** 49

50 MR. GOLAN: Thanks. As Jessie said, I just  
51 came back from Savannah River last night, and for the

1 first time I left Savannah River actually pleasantly  
2 surprised at a lot of the progress they're making. And  
3 ultimately, what we're trying to do is make what we're  
4 doing part of the fabric of every one of the sites  
5 because that's where the real action takes place.

6 When I was thinking about the topic of today  
7 and a programmatic update, what I thought I would do is  
8 go back to two years ago when we put together our five-  
9 year key goals and priorities. And I remember at the  
10 time when we published this, it got out and it caused a  
11 lot of people to say, that's impossible, or I have a  
12 real problem with this, or you know, these seem  
13 unrealistic.

14  
15 And when I was talking with Jessie over the  
16 last couple weeks, I made her go home and read these  
17 again because the first thing I wanted to let her know  
18 is that we keep track of what we said. And the other  
19 thing I think we need to do is be accountable for the  
20 goals.

21  
22 So this is what we published two years ago in  
23 November, shortly after 9/11. And remember, we  
24 published this at a time when literally this country  
25 was shut down from a nuclear perspective here. And we  
26 published some bold and broad goals, and I'd like you  
27 to spend some time with me as I update where we are  
28 today.

29  
30 Our first goal was to improve safety  
31 performance because unless we improve safety there is  
32 no way we're going to be able to do work or accelerate  
33 work. And I think we've talked a lot about safety  
34 already today, but it's something I feel I need to go  
35 through because we're only part of the way there.

36  
37  
38 If you go back eight years ago a total  
39 recordable accident is when somebody gets hurt and it  
40 has to be recorded on an accident ledger, an OSHA  
41 recordable accident ledger. A lost work day case rate  
42 is when somebody actually loses a day at work because  
43 of an accident at one of our sites.

44  
45 Six years ago, back in 19 -- years ago, back  
46 in 1995 -- I'm getting old and I don't know it. Those  
47 rates were eight and four, 8.0 and four.

48  
49 When Jessie put out our goals and priorities,  
50 we are at about two and about one in terms of lost work  
51 day case rates. This is per 200,000 work hours, or

1 about every 100 employees.

2  
3 In the last two years, we've seen about a 40  
4 percent reduction, 42 percent reduction actually, in  
5 the number of total recordable cases, and a 38 percent  
6 reduction in the lost work day cases. Except for the  
7 hydrogen program, which is a Department largely an  
8 administrative job today, these are the best safety  
9 statistics in Department of Energy today.

10  
11 And if you look at the broader backdrop here  
12 in terms of the risk that's no longer in the  
13 environment, risk that's been eliminated with it -- and  
14 I'm going to go through that -- whether it's spent  
15 fuel, special nuclear materials, the transuranic waste.  
16 It's no longer in the communities today or next to the  
17 workers. It's pretty phenomenal. So not only did we  
18 reduce absolute worker risk but we reduced worker and  
19 community risk by eliminating the risk from the sites  
20 here.

21  
22 In February, I think some of you might have  
23 heard I think Tom was at that meeting down in New  
24 Mexico when we said we were not satisfied with our  
25 safety performance and there was four things we were  
26 going to look at this year. And we called it the Four  
27 Safety Metrics because we thought if we really focused  
28 and managed on four things, maybe we could actually get  
29 somewhere.

30 And so our goal was zero accidents and  
31 injuries. That was the first one. Eliminate accidents  
32 and injuries from the work force. I can give you all  
33 the paper you need in terms of where we are, and the  
34 graphs and everything that we've been following.

35  
36 The second goal was zero internal or skin  
37 contaminations. We think that's a failure of our  
38 system when a worker gets exposed internally or on  
39 their skin.

40  
41 Zero and the first one is the way I measure  
42 that is workers going to the hospital. The second  
43 metric I measure by, workers actually needing to be  
44 decontaminated or actually show contamination inside.

45  
46 The third metric was lock-out/tag-out. We  
47 measure every single lock-out/tag-out whether it was  
48 the wrong tag or lock hanging on a breaker or valve, or  
49 workers did work when a system wasn't locked or tagged  
50 out. We're measuring that on a daily basis.

51

1                   And the last was incidents involving  
2 transportation of hazardous nuclear waste. I don't  
3 care of the placard fell off, I don't care if there was  
4 low tire pressure. Managers are required to call me  
5 within 30 minutes when they have one of those  
6 incidents.

7  
8                   The whole idea here is there is literally  
9 1000 metrics that we can measure across the complex.  
10 What are the handful that we can actually pick and  
11 measure and monitor and start holding folks  
12 accountable, okay.

13  
14                   We're actually looking at that, and part of -  
15 - when we go through those four metrics, if we look at  
16 the, you know, hospitalizations, we have about 50,000  
17 workers in EM. We're sending around five people to the  
18 hospital every month across EM. Now, some of it is for  
19 a bee sting, some of it is for a back sprain, but we  
20 don't send people to the hospital sometimes for when  
21 they nearly get hurt. So we think it's a good absolute  
22 measure.

23  
24                   What we found in lock-out/tag-out is we had  
25 about six lock-out/tag-out occurrences per month across  
26 our 50,000-person work force. We had about three  
27 incidents where we've had transportation quality  
28 issues, transportation issues involving hazardous or  
29 radioactive material. And what we've tried to do with  
30 improving safety is, when I have my weekly manager's  
31 conference call, any site that has one of these  
32 incidents happen during the course of the week, the  
33 manager is required to discuss that, what happened, the  
34 lessons learned, and what they're trying to do, what  
35 they're attempting to do to prevent that from happening  
36 again.

37  
38                   Now, it's been seven months since we started  
39 measuring and trying to drive these statistics down.  
40 And unfortunately, I can't show you a graph that says  
41 we've now cut these incidents in half. They appear to  
42 be trending downward, but again, if you look at the  
43 statistics, I don't have enough data to say they're all  
44 going in the right direction.

45  
46                   But let me give you an instance of why it's  
47 so important for us to check back with what's going on  
48 in the field. We had a drum fire up in Idaho this  
49 summer. Punctured a drum that was bulging. It briefly  
50 lit on fire. And when I called the site the first  
51 time, they said, well, this is an expected occurrence.

1  
2 I said, there's only two places we're going to  
3 have expected occurrences for fires. One is when we do  
4 stabilization, when we put things into furnaces; the  
5 other is we still do controlled burns. Those are the  
6 only time we really expect fires to happen. They said,  
7 no, it's going to be an expected occurrence. There's  
8 nothing we really can do to prevent it.  
9

10 Down at Savannah River this week, they  
11 actually have a chamber where if they have a bulged  
12 drum they can actually puncture it in -- much like how  
13 you would defuse a bomb. What they'll do with the  
14 environment inside this chamber here is evacuate it and  
15 put in inert gas. When the drum puncture goes in  
16 there, there is no chance of that fire actually  
17 happening.  
18

19 Now, it's one of these things where the  
20 connection through my telephone calls, as we do our  
21 weekly telephone calls, was not made. Savannah River  
22 didn't say, hey, I don't have enough information or I  
23 have a way to figure out how this you can prevent this  
24 from happening again in the future. But it was the  
25 connection we made by going into the field and actually  
26 seeing what another site did. We're going to have the  
27 Idaho folks actually go down to Savannah River in the  
28 next couple weeks to see this apparatus that they have  
29 to prevent it from happening.  
30

31 So the bottom line here is, although our  
32 safety statistics have been going in the right  
33 direction, we're not satisfied and we really think that  
34 we can actually eliminate some of these occurrences  
35 that we've grown so accustomed to expecting over the  
36 last 20 years.  
37

38 The second objective that we committed to was  
39 take \$100 billion and 30 years off the clock for this  
40 program. And this is on the heels of the year before  
41 Jessie got here, the cost of this program increased  
42 \$14.1 billion. Most of a third of our sites in the  
43 previous year had flipped their schedule by at least a  
44 year. So when we said we're going to cut \$100 billion  
45 off, people were just like, there's no way you can do  
46 that.  
47

48 Well, as of the last fiscal year, fiscal year  
49 '03, we've actually taken \$50 billion off the total  
50 project cost, and this is something that has been  
51 audited by one of the big five financial firms. A

1 credible \$50 billion has been reduced from the clean-  
2 up, and our actual time to complete the clean-up has  
3 been reduced by 38 years, from 2070 to 2032.  
4

5 One of the other things that we also measure  
6 which we think is important is our program direction  
7 account. That's the money that we spend as the federal  
8 government instituting, operating, overseeing our  
9 clean-up here. That was the third-highest project cost  
10 in EM just a couple years ago.  
11

12 What we found out two years ago was we were  
13 spending \$100 million a year on support services out of  
14 headquarters. In fiscal year 2002 we cut that in half.  
15 We took another \$20 million out of that last year, and  
16 we're operating about 30 percent on the program  
17 direction account from headquarters than we were just  
18 two years ago. A 70 percent reduction there. That  
19 money going out to the field to pay for clean-up and  
20 it's paying for accelerated risk reduction.  
21

22 Two years ago we said we wanted to close  
23 Rocky Flats on time and get Fernald and Mound back on  
24 track to close by 2006. And at this time, we still had  
25 all the special nuclear materials at Rocky Flats and  
26 there wasn't a single SST on the road. Mound had  
27 slipped into the 2010 time frame, and Fernald was 2010  
28 at that time.  
29

30 We actually finished shipping the material  
31 out of Rocky Flats this summer. I think Lorraine was  
32 probably there for the celebration that we did. Rocky  
33 Flats is now on track to at least meet the December  
34 15th, 2006, closure. It's running about a 10 percent  
35 positive cost variance right now.  
36

37 It's a project that we're continuing to learn  
38 a lot from, and one of the key lessons here is that to  
39 get early, up front, and significant community  
40 development into tough decisions was really one of the  
41 key things we did in making that project successful,  
42 whether it was the on-site disposal of the clean rubble  
43 or some of the creative things we're doing with the  
44 soil action levels there. The only reason that  
45 happened was because of the public involvement.  
46

47 Mound is now on track to close early in 2006.  
48 In fact, our completion date right now is March 2006.  
49 We actually recompeted that contract and awarded it  
50 earlier this year because we weren't getting  
51 performance out of the contractor we were expecting.

1  
2 We actually put a contract modification in  
3 place at Fernald this -- earlier this spring which took  
4 that from basic full fee for a 2010 closure to  
5 basically the contractor won't earn any fee if they  
6 close after 2006. And any of those three contracts we  
7 see, if they're not going to close by 2006, we reserve  
8 the right to take future action as we did in Mound  
9 earlier this year.

10  
11 We're also preparing about a half a dozen --  
12 maybe up to 10 small sites through the CD-4 closure  
13 process in fiscal year '04. A number of small sites  
14 that we can just get off our books and complete the  
15 records of decisions and move on.

16  
17 Our fourth goal was to consolidate special  
18 nuclear materials out of EM sites by 2004. We  
19 successfully deinventoried Rocky Flats and Ohio with  
20 the 238 -- plutonium 238 material leaving earlier this  
21 summer. All the weapons grid materials have been  
22 removed from Rocky Flats.

23  
24 Both Hanford and Savannah River have their  
25 3013 nuclear material stabilization and packaging lines  
26 on place right now. We watched, actually, Savannah  
27 River do its third weld on an oxide can this week up an  
28 FB line. Hanford is going to complete their  
29 stabilization of its metals and oxides this year.  
30 Savannah River looks like March of '05 right now.

31  
32 We've taken the spent fuel out of six pools.  
33 They have the pools that we take the spent fuel and  
34 put them in for interim storage. Right now we have  
35 four open spent fuel pools across EM: L Basin down at  
36 Savannah River; we have the 666 Basin at Idaho; and K  
37 East and K West Basin. Despite the problems we've been  
38 having with our sludge water and the sludge removal at  
39 Hanford, over 70 percent of the fuel has been removed  
40 from the K East and K West Basins, and we're looking  
41 for that to finish this year. So at the end of this  
42 year we'll only have two spent fuel basins open in EM.

43  
44 Spent fuel was taken out of West Valley this  
45 summer. We've completed most of our spent fuel  
46 shipments from Oak Ridge to Idaho this year. All the S  
47 & M source term has been removed from Apple Canyon at  
48 Savannah River. And if the President signs the  
49 appropriations bill, we'll actually have  
50 decommissioning authority at Savannah River with a few  
51 -- with basically some middle -- in Congress. They are

1 ready to do that. They have the decommissioning plan  
2 on the manager's desk.  
3

4 And one of the things, again, what happened  
5 in September 11th, the Department developed a new  
6 design base threat to protect and safeguard its nuclear  
7 materials. EM is in compliance with the design bases  
8 the rest of the updated design bases. We've been able  
9 to come in compliance with that for real minimal cost.

10 Part of it has got to do with the fact that we've  
11 eliminated the need to actually provide the safeguards  
12 for material if it's not there. Rocky Flats; you can  
13 walk into the deepest vault in Rocky Flats without  
14 seeing a guard right now. Going to more industrial  
15 security practices where there's no special nuclear  
16 material.

17  
18 We're in compliance, so any place we have  
19 material we're in compliance with the DBT. And we've  
20 done it at fairly minimal cost across the complex.  
21

22 The fifth goal was to eliminate the need to  
23 process high-level liquid waste. It was our single  
24 largest cost driver in the EM Program, and nearly half  
25 of our program dollars were going to go to tackle the  
26 high-level waste problem. We have eliminated the need  
27 for a second vitrification plant at Idaho -- excuse me,  
28 at ORP, Office of River Protection, which was on the  
29 books two years ago to build a second plant.  
30

31 Idaho has completed emptying their pillar and  
32 panel tanks and has completed actually cleaning two of  
33 their former high-level waste tanks. And if you look  
34 at some of those tanks -- I was out there three weeks  
35 ago -- you could say these -- you could store milk in  
36 these things they're so clean.  
37

38 Up at the Office of River Protection, we're  
39 down to 40,000 gallons -- less than 40,000 gallons of  
40 pumpable liquid out of the single-shell tanks. And  
41 again, that was our significant risk term on the river  
42 there. Roy has actually started a waste removal from  
43 Tank C107. The first waste is actually being removed  
44 from out of the tanks out there. If you look at the  
45 Columbia Basin today, most of the spent fuels off that  
46 basin and most of that liquid is out of the high-level  
47 out of the single-shell tanks there. This is -- we've  
48 significantly reduced the risk for the contamination of  
49 the river out there.  
50

51 And in the process through all this, we've

1 actually eliminated over 2 and a half million gallons  
2 of high-level liquid waste just through better  
3 management. We were actually increasing our volumes of  
4 high-level waste through the '90s even though all our  
5 reactors were shut down. But we've actually been able  
6 to eliminate about 2 and a half million gallons of  
7 that, and some of it is just due to a natural  
8 evaporation because just in a more dispersible form.  
9

10 We actually saw DWPF operate yesterday.  
11 That's the Defense Waste Processing Facility down at  
12 Savannah River. That's actually taking the high-level  
13 waste and making it into glass waste canisters there.  
14 A real great new story down there is they've actually  
15 been able to what used to need four canisters, it  
16 actually now only needs three canisters to dispose of  
17 the same amount of waste. They're using a new glass  
18 frit.  
19

20 They're actually using increased filling, and  
21 they're able to actually put about 33 percent more  
22 waste in every can that they're packing down there.  
23 That's less space that they're going to need for  
24 storage, less space that's going to need to go in a  
25 truck, and less space that's going to need at the  
26 repository there.  
27

28 And we think that's just a great new story  
29 down there, and the machine was up and operating. And  
30 it's operating as it has never done before. They've  
31 actually done some real good modifications that allow  
32 us to do that.  
33

34 And we should actually get Roy sometime to  
35 talk about some of the alternatives he has to  
36 vitrification where it just doesn't all have to go to  
37 the high-level glass smelter. Some of the bulk  
38 vitrification technologies and some of the separation  
39 technologies that they're looking at are truly  
40 spectacular.  
41

42 You talked about the -- let me know if I'm  
43 running out of time. You talked about the Contract  
44 Management Advisory Council. Our sixth goal is to make  
45 EM a better customer. We basically always got what we  
46 expected. What we needed to do two years ago was  
47 change what we expected and hold our contractors  
48 accountable.  
49

50 We developed a five-year acquisition strategy  
51 last year. We're in the process of implementing it.

1 Frank is going to talk a little bit about that today.  
2 Anybody who reads the "Weapons Complex Monitor"  
3 probably sees that we have about 14 small business  
4 contractors that are in the process right now.  
5

6 But our five-year acquisition strategy has  
7 small businesses as a significant aspect because what  
8 we needed to do was to broaden our contractor pool to  
9 do our risk reduction. And really, the small business  
10 offers us the agility and the new ideas that we just  
11 weren't getting over the last decade here.  
12

13 The other part of this had to do with, what  
14 do we do with the contracts that we have in place  
15 today. Every one of our contracts -- every one of our  
16 major contracts has been restructured over the last two  
17 years to really take what our goal chart metric for --  
18 to take what we've agreed to in the performance  
19 management plan and make them into contract  
20 expectations.  
21

22 This is one area that we're probably the most  
23 amount of work in progress right now because just  
24 because you change the contract, unless you change how  
25 you behave managing that contract, you're not going to  
26 get the change in results. And so we're spending an  
27 awful lot of time forcing people to manage the  
28 contract, not the contractor. And I'll tell you, where  
29 I spend probably half my time here is making sure  
30 people use the contract as their instrument to manage  
31 the site rather than the contractor. So we're not  
32 nearly there. We've basically drawn the map on how to  
33 get there and now we have to teach people how to use  
34 that map to get sustainable and predictable results.  
35

36 If you haven't seen the "Weapons Complex  
37 Monitor," I'm just going to put a couple of things out  
38 on the table in terms of small business set-asides that  
39 we've had.  
40

41 Construction of the glass storage facility,  
42 the second part of that facility down at Savannah  
43 River. That's a \$60 million small business set-aside.  
44 Battelle Columbus Closure Project is a \$30 million  
45 set-aside, and that was recently awarded. The Fast  
46 Flux Test Reactor D & D at Hanford, \$400 million small  
47 business set-aside out there. You go through the IDIQ  
48 contract, and hopefully Frank will talk a little bit  
49 about the Indefinite Delivery/Indefinite Quantity  
50 contract.  
51

1           We actually bring contractors to our site.  
2 Take a task -- we take a series of tasks and say, we  
3 want you to do this because our current contractor is  
4 not performing. We're looking at potentially, you  
5 know, in the hundreds of millions of dollars to award  
6 those on a task-by-task basis. A substantial majority  
7 of those are going to be made to small businesses. We  
8 are going to make two large businesses awards. And to  
9 give DOE more flexibility, basically get the work done  
10 and also give us another hammer when contractors know  
11 that it's not five years when their work becomes no  
12 longer safe, it's going to be five days or five  
13 minutes. We're trying to put some more real-time  
14 competition into our actual acquisition process.

15  
16           The 222-S Laboratory up at Office of River  
17 Protection is another small business set-aside. And I  
18 think everybody's familiar with our intentions at  
19 Paducah and Portsmouth.

20  
21           Part of the thing that we're also trying to  
22 do with the CMAC, the Contract Management Advisory  
23 Council, is to make DOE a more predictable customer.  
24 And so one of the things that I do every about 45 days  
25 is sit down with every one of the SEB, the Source  
26 Evaluation Board, chairs and the source selecting  
27  
28 Officials on all the contracts that we have in the  
29 system.

30  
31           They're there to report and be held  
32 accountable on their progress against their schedule  
33 because there's nothing that kills the system more and  
34 kills small business more than -- we're going to put a  
35 request for proposal out in December and it doesn't  
36 come out until June, okay. When you start doing that  
37 and you start doing that repeatedly, people say, we  
38 don't want to play ball with you guys, and they just  
39 walk away.

40  
41           Now, we haven't been completely successful in  
42 terms of living to our schedule. We have taken actions  
43 and held people accountable when they haven't met their  
44 schedules here, but part of the deal here is, is that  
45 for us to attract new business and other businesses,  
46 we're going to have to be a better customer. We're  
47 going to have to be a preferred customer, and if we're  
48 a preferred customer, we're going to become a preferred  
49 supplier here.

50  
51           This is a huge challenge. Fortunately, I

1 have Frank Sheppard here, who's been working as my  
2 right hand on the contract strategy. Norm Sandlin --  
3 we hired a 25-year contracting officer for the  
4 contractor -- is my left-hand person. I wanted to  
5 bring in the commercial experience and the commercial  
6 view into how we attack this acquisition process.  
7

8 Again, this is one where we're in the very  
9 early stages. We have a lot out there, and sometimes I  
10 feel like I have, you know, 300 pounds on my back  
11 climbing up a hill. But it's a hill we have to climb  
12 up; it really is. And we're probably most excited  
13 about this aspect of our business because it's one that  
14 clearly can open up a lot of doors.  
15

16 Our seventh goal that we committed to was  
17 shrinking the footprint. Anybody who has been down to  
18 Savannah River in the last six months, and the area,  
19 which is a large complex with laboratory office  
20 buildings and processing areas, is being torn down. We  
21 actually heard jackhammers and bulldozers past 5:00 in  
22 Savannah River two days in a row.  
23

24 It really warms your heart to see that  
25 happening here.  
26

27 (Laughter)  
28

29 MR. GOLAN: Lorraine's probably seen a  
30 building or two leave Rocky Flats every day over the  
31 last four -- over the last two years. We've actually  
32 demolished 156 buildings. And this is one that over  
33 the next couple years, we're going to see a significant  
34 acceleration of that because before you actually  
35 demolish a building there's a lot of stuff you have to  
36 take down out of the inside: asbestos, processed  
37 piping, the electricity, and things like that. We're  
38 actually looking at an acceleration of the demolition.  
39

40 This is also a point that we're specifically  
41 concerned about from a safety perspective. I think we  
42 have a good hand on the nuke safety, the nuclear  
43 criticality safety, the radiation safety. We're making  
44 some good in-roads on that. But really, the place that  
45 we're the most vulnerable is when you start talking  
46 about moving heavy iron and start moving around --  
47 that's the place where somebody could get hurt or  
48 killed real quick if we're not really careful here.  
49

50 So we're spending an awful lot of time on the  
51 industrial safety aspect of our safety program here to

1 make sure that we have the right eyes and ears there  
2 and we have the right oversight and we have the right  
3 systems and processes in place because, again, the  
4 absolute standard is that an accident anywhere in our  
5 complex is unacceptable.

6  
7 Our eighth goal was to get waste to disposal  
8 sites quickly and dispose of 10,000 drums of  
9 transuranic waste at Waste Isolation Pilot Plant (WIPP)  
10 and decrease the cost of actual disposal at both WIPP,  
11 Nevada, and Envirocare by 30 percent. As of yesterday,  
12 we have 17,000 meters of transuranic waste down at  
13 WIPP. Despite the fact that we had problems at Idaho  
14 last year with the NWP not starting up on time, WIPP  
15 actually met 97 percent of its goal.

16  
17 If you take out, you know, a third of the  
18 generation that we have planned out of Idaho, we still  
19 had 97 percent of our goal. That means other sites  
20 stepped up. We've actually completely deinventoried  
21 three small sites, MURR, ETEC, and the last one I  
22 forget right now. Excuse me. I don't have detailed  
23 notes here.

24  
25 Savannah River actually was able to ship at a  
26 rate of 24 months. They went from zero to 24 months  
27 predictably. We're having some troubles with getting  
28 some of our transuranic waste out of Lanhall right now,  
29 and we'd like to see more waste come out of Hanford,  
30 too. We're working those issues separately.

31  
32 All the legacy transuranic waste has been  
33 removed from Mound. And we made record shipments again  
34 last year in both Envirocare and to NTS. This is the  
35 second area which we're very concerned about because  
36 none of our clean-ups can happen if any one of these  
37 disposal sites shut down or if we're unable to ship.

38  
39 When the Gulf War started in March of this  
40 year, we had contingency plans to shelter every one of  
41 our trucks. And I can tell you within 20 minutes where  
42 every single one of our trucks are, whether it's  
43 transuranic waste, or whether it's just low-level  
44 waste. Our systems are set up today to be that  
45 predictable.

46  
47 When 9/11 happened, it took us nearly a month  
48 to get all our trucks back on the road. After the Gulf  
49 War started in March, we were able to get complete  
50 restarting up all shipping within two days. That's  
51 because we have the systems in place so that if

1 something bad happened we could find them and get them  
2 to safe shelter real quickly.

3  
4 And that's also, you know, the thing -- why  
5 it's so important with the shipping QA. It doesn't  
6 matter if somebody just forgot or if somebody just, you  
7 know, had a bad day. One of those kinds of things  
8 could actually shut down our pipelines to both WIPP and  
9 NPS. That's why the managers are required to report  
10 any incident involving hazardous or radioactive  
11 shipping issues to me within 30 minutes.

12  
13 You know, fortunately, they've mostly been  
14 simple kind of things: placards have been falling off  
15 and things like that. But you know, earlier this year  
16 we had a driver black out up in Idaho. Probably in  
17 Wyoming when he blacked out. It was right on the  
18 border there. Had actually had a seizure. Nobody got  
19 hurt. The truck didn't get damaged or anything like  
20 that. But it's something that we looked at and  
21 actually we have were actually able to pull a video out  
22 of the truck and actually watch what happened.

23  
24 We also had a truck driver hit a truck down  
25 at WIPP this year. Two o'clock in the morning on this  
26 -- while our truck was about three miles from WIPP, a  
27 drunk driver hit a WIPP truck. We spent a lot of time  
28 looking at what happened with that accident. I think  
29 everybody remembers that. That's the TRUPAC 154.

30  
31 When we actually opened up that truck, we  
32 found some contamination inside the TRUPAC. We did a  
33 full-scale evaluation. We actually did an autopsy of  
34 that drum. People thought -- we originally thought  
35 that the collision between the drunk driver and the  
36 truck actually caused the spread of contamination in  
37 the WIPP truck. What we actually found out was that  
38 when the drum was put in the WIPP truck here, the lid  
39 on the drum was not bolted down to the proper torque  
40 specification.

41  
42 So we look at every one of our transportation  
43 incidents very seriously. Generally, we do Type B  
44 investigations on every single one of the  
45 transportation incidents we have. We had a couple --  
46 we had a railroad car where a B-25 box actually  
47 shifted. Spilled about a cup of contents of dirt on  
48 the floor of the box car. We did a full Type B  
49 investigation on that and found out that we had a  
50 bracing problem in how we brace our B-25 boxes in our  
51 box cars.

1  
2 Sent the Type B investigation out, and I  
3 think we solved that problem, but we're always here to  
4 learn, you know, just because we say something doesn't  
5 mean it actually gets translated into an operating  
6 procedure on the floor.  
7

8 The last thing I'd just like to talk about  
9 is, we committed to reshape our systems and  
10 infrastructure to drive accelerated closure. We've  
11 established a Configuration Control Board that all  
12 changes to the project that add cost, schedule, or  
13 scope have to be approved by the assistant secretary.  
14 Any time somebody wants to take costs out, eliminate  
15 work scope that doesn't come up somewhere else, or  
16 decrease the time, the sites can make those changes  
17 themselves.

18 We've been very frugal and wary of managing  
19 this as a baseline because, again, the year before  
20 Jessie got here, \$14 billion crept into the program.  
21 We didn't know where it came from, at least most of it.  
22

23 And we're holding managers accountable. I  
24 hold the managers accountable to deliver the  
25 performance that they specified in their goal chart,  
26 which is their performance metric, and for them to  
27 improve safety at their sites. Those are the two  
28 things that I hold every manager accountable for.  
29 Everything else in my mind is nice but a lot of times  
30 irrelevant because if you don't do those two things,  
31 you're not really doing our mission here.  
32

33 We talked about the Contract Management  
34 Advisory Council. That's been very important in terms  
35 of, weaving the process into the fabric -- the EM  
36 fabric so that no matter who's here and no matter how  
37 long after, this is an embedded process. It's going to  
38 be tough to take these systems out.  
39

40 We have a budget structure that aligns our  
41 budget, how we plan work, how we ask for money, with  
42 the actual risk reduction work that we do. And it's  
43 probably the most significant budget restructuring EM  
44 has ever taken since it was created back in 1989. And  
45 I think you're going to talk a little bit about our  
46 human capital strategy, which is a very key aspect of  
47 how we're managing this.  
48

49 One of the things I think everybody's aware  
50 of is, most of the people are in different seats than  
51 they were a couple years ago. Eighty-five percent of

1 our SESs are in different positions than they were two  
2 years ago. Most of the people who have stayed on the  
3 large majority of the people who didn't opt to move on  
4 or to retire and are working in their new positions say  
5 it was one of the best moves they've ever had to go  
6 through.

7  
8 It forced them to think different, and that's  
9 part of this, is that we used to be an organization  
10 with a lot of heads. We used to have a field and a  
11 headquarters organization. And you know, so we tried  
12 to integrate and make the headquarters folks to go to  
13 the field and the field folks come up to headquarters,  
14 folks that -- a lot of people told us that was kind of  
15 stupid at the outset. You'd be surprised what just  
16 having that appreciation for what the other part of the  
17 organization does has towards driving us towards a  
18 single organization.

19  
20 We have people who worked in Budget now  
21 working over in Operations, people in Transportation  
22 now working in Safety. Folks have to put on the other  
23 person's hat, to go to that other person's job with the  
24 experience that they've had, and they now can  
25 understand things differently than the job that they  
26 had their whole life here.

27  
28 We're finding that challenging our executives  
29 and forcing them into positions where they grow and we  
30 stretch them is actually paying off quite surprisingly  
31 and quite pleasantly. And you can talk to just about  
32 anybody that's been reassigned, and I'm one of them,  
33 and it was one of the keys to making the EM Program  
34 actually turn around.

35  
36 That's what I was going to talk about today.  
37 Again, what I wanted to do is report on what we said  
38 our goals were two years ago. By no means we're not  
39 saying that we're spiking the ball with one out in the  
40 eighth inning, as any Cub fans in here will know, you  
41 can't do that. Or Red Sox fans.

42  
43 (Laughter)

44  
45 MR. GOLAN: But maybe this is -- I just  
46 thought this would be a good time to just give you a  
47 status on where we were versus what we've we said we  
48 wanted to do when things were very different than where  
49 we are today.

50  
51 So with that, I'll take any questions.

1  
2 MR. AJELLO: Paul, thanks a lot. A very  
3 comprehensive overview. I think each of us get in our  
4 offices the "Complex Monitor" news clips, strategic  
5 plans, budgets, testimonies. I can go on and on with  
6 the material we receive. And we thank you for -- and  
7 thank everyone in the program who provides that  
8 information to us.  
9

10 I think most of us feel that we're reasonably  
11 well informed. However, you've certainly brought life  
12 to a lot of the things that, you know, we read about,  
13 and it's really a neat exercise to go back two years  
14 ago with what I gather -- I don't know if you used the  
15 word, but I gather you felt it was a stretch goal, just  
16 about each and every one of these things.  
17

18 MR. GOLAN: They were. And just remember  
19 where we were two years ago. I mean, we didn't have a  
20 single SST on the road here. We were in an entirely  
21 different world. And we're -- when we looked at these  
22 two years ago, we said, I don't know how we're going to  
23 make these happen. In fact, Bruce Carnes went over to  
24 Homeland Security. He saw this, and he said, this is  
25 great, good luck, you know.  
26

27 MR. AJELLO: What's next.  
28

29 MR. GOLAN: Yeah.  
30

31 MR. AJELLO: Yeah. That's the problem.  
32 You know, going back to human capital and a  
33 bunch of the other things that we were discussing this  
34 morning, it would seem to me that this kind of list of  
35 accomplishments is probably a good way to galvanize the  
36 organization internally perhaps as well as externally.  
37 But just staying with the internal matters for a  
38 moment, you know, any successful organization  
39 celebrates with pride its successes. And I'm wondering  
40 if this is part of the thing or things that you reflect  
41 upon with your folks and give them some reason to see  
42 the progress.  
43

44 It also is a great way, at least I've found,  
45 to make what are apparently in the context stretch  
46 goals new goals and make people believe that they can  
47 achieve a similar set in the future. Is that creeping  
48 into your management practice?  
49

50 MR. GOLAN: Yeah. We're going to actually  
51 use the field managers' meeting to kind of go back over

1 the last two years. I have actually an afternoon with  
2 Paul that's going to be a fireside chat. And we're  
3 actually going to start out that afternoon going over  
4 not only the opportunities but just where we've been  
5 and what have we learned.

6  
7 And it's interesting because a lot of folks  
8 think you can only learn from something that's gone  
9 wrong. And what you have to do is learn from things  
10 that have gone right, too. And the question is, how  
11 did this happen, what are the things that made these  
12 kinds of things happen.

13  
14 And so what I would look at this as part of  
15 the learning in terms of what's pulled back. And these  
16 are symptoms of something that are deeper in the  
17 organization that are going right. Again, I have my  
18 whole handful of things, symptoms, that are -- that go  
19 back in the organization of something going wrong here.  
20 You just have to learn from both. We're going to --  
21 we're going to balance that and use this as part of  
22 that.

23  
24 The other thing that I've asked Frasier  
25 Lockhart to do is, you know, you look back at what's  
26 happened at Rocky Flats. I looked at the various --  
27 just Tuesday afternoon before I went out to Savannah  
28 River in terms of the positive schedule and cost  
29 variance. And I said, Frasier, go back and pick out  
30 the six or eight things that if they didn't happen, you  
31 wouldn't be where you were today. And then go back and  
32 kind of dead reckon and say, well, what were the things  
33 that led up to every one of these decisions or every  
34 one of these events happening, and tell me to see if --  
35 if, you know, they're all different or they're all the  
36 same.

37  
38 My hunch is, is that if -- let's say there  
39 were six major things that have had to happen to make  
40 Rocky a success story. I bet you they all go down the  
41 same trail. I bet you they really do.

42  
43 And so again, we're trying to take this as  
44 part of that collective learning here. We're trying to  
45 provide that feedback.

46  
47 The other things that we, you know, we always  
48 like to do is go out to the field and spend time with  
49 actual workers, spend time with the Federal folks -- we  
50 were just down at Savannah River again and provide them  
51 that feedback face-to-face because that's where you're

1 really going to get a lot of the, I think, the good  
2 will to continue along that path.  
3  
4 ASSISTANT SECRETARY ROBERSON: You know, I'd  
5 add one thing to what Paul said, and that's I guess for  
6 me the answer would be "yeah, but."  
7  
8 MR. GOLAN: That's always the case.  
9  
10 ASSISTANT SECRETARY ROBERSON: Yeah, but.  
11 Yeah.  
12  
13 MR. GOLAN: Because there's the whole handful  
14 of things that we missed last year.  
15  
16 ASSISTANT SECRETARY ROBERSON: Yeah.  
17  
18 MR. GOLAN: There really is.  
19 ASSISTANT SECRETARY ROBERSON: There are  
20 things we missed and, you know, single-shell takes at  
21 Hanford. We're down to, you know, 40,000 gallons.  
22 So call me when you get down to zero. We're down to  
23 four basins; call me when we're down to zero.  
24  
25 I mean, we have to learn to celebrate our  
26 accomplishments but not to lose sight. That's the  
27 diligence and the commitment that got us that far. It  
28 has to take us to finishing the job.  
29  
30 MR. AJELLO: Is there a comparable list that  
31 is as broad and impactful for the next two or three  
32 years? What is your planning process around creating  
33 the next set of issues for you to tackle?  
34  
35 MR. GOLAN: Okay. These were five-year goals  
36 that we've published.  
37  
38 MR. AJELLO: Right.  
39  
40 MR. GOLAN: And what I would say is, what  
41 came after this was development of the goal chart.  
42  
43 MR. AJELLO: Okay.  
44  
45 MR. GOLAN: And so what I'm going to do is,  
46 rather than change this, is to use the individual goal  
47 chart metrics that the site has in terms of eliminating  
48 -- stabilizing and things like that, and use the goal  
49 chart as the new basis to say, okay, this is what you  
50 thought you could do two years ago; how is it that you  
51 can actually improve on the performance. Then, what do

1 we need to do to get there.  
2  
3 Because I think these are going to be good  
4 goals for the next three years. The question is, how  
5 much more aggressive can we get in terms of actually  
6 doing the risk elimination.  
7  
8 ASSISTANT SECRETARY ROBERSON: You know, I  
9 could probably pick an example from any of the sites,  
10 but as I look at Lorraine, the thing that comes to mind  
11 is 903 pad. When I left Rocky Flats, we probably spent  
12 eight years arguing over -- among all the parties what  
13 to do. And in less than three years, they'll have it  
14 done. Isn't it an amazing thing?  
15  
16 MR. GOLAN: An interesting thing about the  
17 903 pad in terms of safety. This is a pad that we have  
18 plutonium drums that contain oil and have plutonium in  
19 them and that leak. And we've put tents over the work  
20 area and we've put all the workers in very full  
21 personal protective equipment. And the deal was, is  
22 that when the workers felt comfortable with the data  
23 that came back, the surveillances that came back, the  
24 workers could decide when it was time to basically pan  
25 down on some of the personal protective equipment.  
26  
27 This was safety going right out there. And  
28 it's gain, is being understanding who the customer is  
29 in this case. In this case, the first customer was the  
30 community and working together with the community on  
31 actually doing the remedial action.  
32  
33 And then when we went from actual planning to  
34 do the work, the customer became the worker here. Take  
35 advantage of the fact that we have smart workers out  
36 here. And when the workers, looking at the data, felt  
37 that they could take the safety requirements down, the  
38 first protective equipment, they didn't have to wear  
39 PAPRs or supply breathing air, let them get comfortable  
40 with that for them to take the next step.  
41  
42 MR. AJELLO: I think, Dave, you were next  
43 with a question.  
44  
45 MR. SWINDLE: Yeah, Paul. One other thing  
46 just to follow up on a comment I guess Jim made is, I  
47 mean, clearly, you know, we're doing statusing here and  
48 you and the whole team in headquarters and the field  
49 are to be applauded to get this far.  
50  
51 Reflect for a moment. There's really four

1 sets of players here that contributed. Clearly,  
2 there's, you know, both the headquarters and the field  
3 with the federal side, there's regulatory players.  
4 There's the contractors who you depend upon, and then  
5 of course the public from all aspects.

6  
7 As you look from the lessons learned, going  
8 back to one of the comments earlier, I'd assume you're  
9 planning this in your sort of assessment of what went  
10 right, what went wrong. If you look at it in those  
11 four categories, I think at the end of the day you  
12 would be able to continue the success as you go  
13 forward. We've got to collectively build on these four  
14 dimensions because, as we all know, they're not all  
15 smooth in all four of those categories.

16  
17 MR. GOLAN: Right.

18  
19 MR. SWINDLE: And I'm sort of wearing my  
20 contractor hat. One of the dimensions early on at the  
21 start of this, there was quite a bit of concern that  
22 there was this "we" versus "they," at least with the  
23 contractor community. And there's still that concern  
24 out there. I hope when we hear from Frank he'll say  
25 how some of that would be dissipated.

26  
27 We always find, and I wear my DOD hat, that  
28 one of the issues is that your -- it is a "we" versus  
29 "they" during the competitive phase. But once the  
30 award is made, it has to be a partnership. And at  
31 least from my own experience in DOE, it's not always  
32 the case. Once the competitive decision has been made,  
33 that partnership is an integral part to the success.

34  
35 MR. AJELLO: Tom.

36  
37 MR. WINSTON: I was just going to focus for a  
38 moment on No. 2, which is reducing the cost and the  
39 time required. And I think the number you gave was  
40 roughly 50-some billion towards that 100 billion goal.

41  
42 And I was curious as to, do you have a can  
43 you give us a feel for where that's coming from? I  
44 mean, I could identify maybe up to five different areas  
45 where cost savings or cost reductions are certainly  
46 moving things forward, you know, given the maintenance,  
47 security, and you know, management responsibilities.  
48 Any work you move forward is going to save you money.

49  
50 Improvements in the contracting arena,  
51 incentivizing the contracts so that, you know, it's

1 more aligned with getting the work done. Looking at  
2 the DOE work force and having more people focused on  
3 actual real work and activity.  
4

5 A fourth one is getting things out of EM that  
6 really never should have been in EM. You referred to  
7 the kitchen sink catch-all for a while.  
8

9 And then I guess the fifth one I would say is  
10 changing clean-up requirements or clean-up plans. And  
11 those are five areas. There may be more, but I was  
12 curious if you could sort of -- out of that 50 billion,  
13 do you have a feel for the relative benefit or cost  
14 savings in those areas to date? And then, maybe moving  
15 forward, where is -- maybe you've got low-hanging  
16 fruit, maybe there are some tougher nuts to crack.  
17

18 MR. GOLAN: One thing I'd just like to state,  
19 Tom, is that if an activity is no longer in EM and it  
20 got transferred to EH or NNSA, we took that out both  
21 from the pre-2001 to today.  
22

23 MR. WINSTON: So that was not -  
24

25 MR. GOLAN: Yeah.  
26

27 MR. WINSTON: -- a paper -  
28

29 MR. GOLAN: This is an apples-to-apples  
30 comparison here. So this is real, no kidding, \$50  
31 billion. If you look across here, and I think what you  
32 said here, those five things that you said are right  
33 on. And what we would say is that a lot of them are  
34 interlinked, is that, you know, you eliminate work, you  
35 incentivize the contractor to work smarter, you refocus  
36 how the Federal dollars are being deployed, a lot of  
37 times all three of those things or all four or all five  
38 of those things have to happen in order for you to get  
39 that savings.  
40

41 MR. WINSTON: You don't give it to one  
42 category.  
43

44 MR. GOLAN: No.  
45

46 MR. WINSTON: It's really part and parcel of  
47 several aspects.  
48

49 MR. GOLAN: The other part that we were  
50 looking at is the work that we're eliminating that we  
51 don't need to do, whether that -- you know, like in the

1 case of Rocky Flats, we don't need to cut up glove  
2 boxes and send them to WIPP. We can just direct  
3 dispose of them without decontaminating them.  
4

5 I forget -- I don't know if that was about --  
6 the number -- I forget the number that Frasier told me  
7 from the cost per glove box that saved here.  
8

9 Eliminating security requirements. And you  
10 could say, well, why is that a big deal? Every time a  
11 worker has to pass through some place where they have  
12 to get their badge checked two or three times, that's  
13 10, 12 minutes every time going in, 10, 12 minutes  
14

15 going out every time when they leave. You know, you  
16 don't have lock-downs and things like that.  
17

18 Eliminating a single security barrier --  
19 that's not going to have any -- well, I'm just giving  
20 the workers an extra hour a day. So I would just say,  
21 is that some of these savings, some of these costs that  
22 we're not going to spend come from places that you  
23 would just least expect them.  
24

25 ASSISTANT SECRETARY ROBERSON: You know, one  
26 that I would add that you didn't say, and I mean, some  
27 of you will probably still think we're in La-La Land to  
28 say this, but the alignment between the regulatory  
29 parties on the sequencing and strategy of going  
30 forward. We we're still working on this. We have  
31 cases where we are spending millions of dollars to go  
32 through a laborious paper production process where all  
33 the parties had enough data, documented data, to make a  
34 decision.  
35

36 And we were delaying work that would result  
37 in physical positive environmental benefit to step  
38 through what people interpreted as required regulatory  
39 processes rather than talking and aligning themselves  
40 around the action that would result in improvement  
41 sooner rather than later. It really was.  
42

43 And I think that one of the big ones is  
44 pulling forward, really, the issue, the resolve,  
45 disposition of waste in tanks and spent fuel removal  
46 from bases. Those were things that languished because  
47 they're hard things. And we've still got challenges in  
48 those areas, but we're also making tremendous  
49 improvement.  
50

51 I mean, one of the things Paul said, liquid

1 waste in tanks. It was an easy system to divert decon  
2 water to. When you think about these are -- if you  
3 think about DWPF, a billion-dollar operation we're  
4 going to run decon water through. We said, cut it off,  
5 it's not going in there. It can't go in there.

6  
7 So you can't know, there are categories as  
8 you characterized, but there's a lot of thinking and  
9 experience that has to go into making them result in  
10 where we are.

11  
12 MR. AJELLO: Lorraine.

13  
14 MS. ANDERSON: Well, I think one of the  
15 issues is celebrating your safety. And I know that  
16 there's some hesitancy to do that, but for my purposes,  
17 when I work with the National League of Cities, for  
18 instance, on the Energy and Environment Committee,  
19 invariably we get a person on that committee that wants  
20 to shut down all nuclear shipments and stop all manners  
21 of nuclear generation of anything.

22  
23 And so I think that perhaps we ought to  
24 celebrate those savings we've done in safety and let  
25 folks know how hard you're working toward that because  
26 I think that that helps the whole nation basically  
27 understand nuclear power and energy and puts it in a  
28 different light and that it's not as scary as made out  
29 to be when there is an incident.

30  
31 I think that would -- that helps the whole  
32 complex in care of the waste issues that we have.

33  
34 ASSISTANT SECRETARY ROBERSON: Well, I agree  
35 with you. It's, quite frankly, a challenge. I guess  
36 I'm just naive enough that I think maybe erroneously we  
37 believe that if we keep our head down and keep  
38 producing those results that result in risk reduction  
39 for the communities and for the country that eventually  
40 we won't have to tell people.

41  
42 I think it's a failure if you have to tell  
43 people you're doing good stuff for them. I would like  
44 to think we're going to get to a point where people  
45 will realize these are positive results for them. But  
46 we're not there yet.

47  
48 MR. GOLAN: And I'll pass on the street,  
49 Lorraine, when somebody from Johnson & Johnson calls  
50 and says they want to understand how we do safety  
51 because they want to learn from us.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

MS. ANDERSON: Do you know, I think that's a good measure. A friend of mine attended Harvard with a -- for the MBA program. One of her classmates was a heart surgeon who wanted to study the safety aspect of the nuclear energy conflict so that he could develop them for heart surgery and make heart surgery safer -

ASSISTANT SECRETARY ROBERSON: That's a wonderful thing.

MS. ANDERSON: -- for his patients. So you know, there are people that understand that.

MR. AJELLO: Dennis.

DR. FERRIGNO: Yeah. That was a great report, and obviously -- you've got the phone.

(Laughter)

DR. FERRIGNO: The matrix.

(Laughter)

DR. FERRIGNO: Excuse me. The levity -

MR. AJELLO: We're on the right side. Don't worry.

(Laughter)

DR. FERRIGNO: The lessons learned have been really great and maybe some day Jim Collins of -- will come in and do a sequel on the program. There's a lot to be proud of.

What I've found is, I've had an opportunity of watching you and Jesse at a couple meetings, not just this meeting, in some of the public meetings, and don't lose your passion and pride. There is a pride at work here and a passion that cannot be replaced. And people understand and feel it. A basic thing of leadership is when they see you sweating, not because you're going to be damned or anything like that but because you really care, that's when everybody lines up and does it. So don't lose that, okay. You've got a great pride.

I would say that one of the things that I've noticed in the program, and I don't know if I want to coin it as a commercialized approach, but it's really

1 just common sense. You projectized your program.  
2 You've gone from a caretaker management operation --  
3 this is a comment, I guess. It's not a question.  
4

5 But you've taken your management and  
6 operation legacy and you've now made it in a sequential  
7 strategy of projects. And that is good because it  
8 drives accountability, budget. People rise to the  
9 occasion.

10 One of the problems you have is -- when you  
11 do that, okay. But it seems like you're not getting  
12 that. So again, hats off, but that is a caution when  
13 you commercialize and projectize.  
14

15 My plant over here is doing this. Well, the  
16 heck with that plant over there, and you can't afford  
17 that. You know, and so getting that cooperation I  
18 think is extremely good.  
19

20 I'd like to park a question that I have  
21 after. I don't know if you're going to be here later,  
22 but -- you're not.  
23

24 MR. GOLAN: I think I have a couple other  
25 assignments from the Assistant Secretary.  
26

27 DR. FERRIGNO: Yeah, I understand.  
28

29 (Laughter)  
30

31 DR. FERRIGNO: Well then, maybe I'll just  
32 address it a little bit here, and then maybe we can  
33 answer it later. That is, in the risk reduction which  
34 we in the Metrics Working Group are trying to address,  
35 we were scratching our head in -- when you reduce risk  
36 to a certain level of process, is there a point where  
37 you stop focusing on that site and set different  
38 priorities for another site because the total EM  
39 Program risk reduction is what we're evaluating, not  
40 necessarily just the risk reduction at one site or the  
41 other.  
42

43 And that's a question. Is that come in to  
44 bear in your strategy?  
45

46 MR. GOLAN: I would say it does, but one of  
47 the things that we're trying to do is almost on your  
48 first comment here. It's that, you know, we're an  
49 integrated complex. And it's important that we focus  
50 on all of the sites here. And I would say is that, if  
51 we took that approach, we might say, well, we're going

1 to slow down Rocky Flats since they are just about  
2 done.  
3  
4 Where we stand, getting things done is  
5 extremely important because no matter how small the  
6 operation is, they usually have a large carrying cost.  
7 I don't care if it's just a couple of little waste  
8 drums and a couple TRU drums.  
9 So our real focus is, try to get things done.  
10 Try to give the sites as much predictability as we  
11 possibly can in their contracts and budgets so that we  
12 don't want to create a paradigm where success actually  
13 goes back and creates this evil head that says, you've  
14 been so successful we're going to cut you off. That's  
15 another thing that we're trying to guard against here.  
16  
17 To get done, to provide the sites, the  
18 communities, predictability here I think is, in a lot  
19 of ways, you know, the way to low risk and lowest cost  
20 soonest.  
21  
22 ASSISTANT SECRETARY ROBERSON: I think it's a  
23 good question, and I'd say, yes, we do both what you  
24 said and what Paul just said. The challenge is that  
25 recognizing all the people that work in the  
26 organization are watching our cues. You know, if we --  
27 our actions demonstrate something is unimportant, then  
28 that's the way the organization will behave. So we're  
29 always balancing that.  
30  
31 But we what we do is we really look at risk  
32 reduction from I'd say a material perspective. We  
33 know, especially nuclear materials spent, TRU waste,  
34 and I mean, Paul actually manages the prioritized  
35 baseline for who gets to go into WIPP when. We know --  
36 we coordinate among those sites that have spent fuel  
37 what -- who gets to do what when.  
38  
39 On liquid waste in tanks, we have a team  
40 centered in Idaho spending much of their time at  
41 Hanford because we want to benefit from the work that's  
42 being done and technologies across the complex.  
43  
44 So I think we do both what you said and what  
45 Paul said but with an eye on recognizing that our job  
46 is to complete the job, not to get 70 percent of the  
47 way.  
48  
49 MR. AJELLO: Jennifer.  
50  
51 MS. SALISBURY: Yeah. Paul, what I've seen

1 of EM is mostly or pretty much all from the  
2 transportation side. There are lots of things that are  
3 working really well, but I don't want you to be left  
4 with the impression that it's all working well.  
5 There's a ton of coordination issues out there that  
6 still seem like the left hand and the right hand aren't  
7  
8 always together. And states collectively scratch their  
9 heads, and sometimes it's the state problems.

10  
11 But there's just lots of little issues that  
12 still need to be worked on, and -

13  
14 MR. GOLAN: And you know how that manifests  
15 itself?

16  
17 MS. SALISBURY: How does it come up to you?

18  
19 MR. GOLAN: It comes up to me as that I have  
20 capacity that I'm not using. I'm only using two-thirds  
21 of my WIPP capacity and about 75 percent of my low-  
22 level capacity.

23  
24 So it manifests itself, and just from a  
25 dollar perspective, is that it's kind of like the  
26 electricity that gets generated that nobody uses. It  
27 just goes down the tubes here. I pay for these  
28 resources whether I use them or not. And what we're  
29 trying to do is, again, make this a more predictable  
30 system and make these connections.

31  
32 But I would say is that, yeah there's more  
33 than just a little connectivity. There's issues that  
34 are -- are creating a big disconnect and causing a lot  
35 of programmatic waste right now.

36  
37 ASSISTANT SECRETARY ROBERSON: You would  
38 probably find that I am more familiar with the  
39 interaction issues and Paul's more focused on the  
40 operation. So I'm on a daily basis aware and engaged  
41 with Patty and Vicky on the integration and the  
42 interaction, when notices go out, how people react,  
43 what's happening, what's not happening. And Paul's  
44 always biting on my back saying, I got this capacity,  
45 you know, we need to figure out how to take advantage  
46 of that.

47  
48 So that's probably -

49  
50 MS. SALISBURY: It's probably something  
51 you're going to have to constantly be working on

1 because you have states involved who don't necessarily  
2 work for you -- who don't work for you. To try to  
3 coordinate all that activity is a headache in and of  
4 itself. But it causes so many rippling effects when  
5 things aren't working well. And I'm not saying that  
6 they're not by and large because just the proof is in  
7 the pudding in how much waste has been moved, and it's  
8 worked. But there are lingering issues.

9  
10 ASSISTANT SECRETARY ROBERSON: Well, it is  
11 new ground, too, Jennifer. It's much like the increase  
12 in activity at our sites. There's an increase in  
13 activity in this arena. And so it is exercising -- you  
14 know, it's kind of like the first time you go to the  
15 gym. You start to find out there's muscles in places  
16 you didn't know.

17  
18 And our job is to respond and react to those.  
19 It's a full-time job, and it will never be done.

20  
21 MS. SALISBURY: And I think you also have to  
22 look at it from the perspective that states want it to  
23 work. By and large, I mean they really do want to work  
24 with you as a partner, but sometimes they feel like  
25 they're not being listened to particularly.

26  
27 And just also, since you're going to be  
28 moving possibly into the rail realm, which is very new,  
29 you have a whole lot of new policies that you've got to  
30 develop, people who have to be trained, is to think  
31 hard about how long it took to get the truck shipments  
32 underway. You're moving into rail. It's going to take  
33 a long time to get all that process underway, and is  
34 this going to really be cost effective in the long run  
35 to do this. So lots of issues out there.

36  
37 ASSISTANT SECRETARY ROBERSON: Lots of  
38 issues. I know. You're right.

39  
40 MR. AJELLO: I think we'll take one more  
41 question, and then we'll -- we're just a little bit  
42 behind, but I'm really enjoying the dialogue, so I'm  
43 torn. But, Lorraine.

44  
45 MS. ANDERSON: I'll be very brief. Jennifer  
46 brings up a good point. And as we work through the  
47 issues of transportation with local governments, I  
48 guess my question would be, how can we help you?  
49 Because local governments feel very strongly that  
50 they're the ones that are on the line for first  
51 responders when you have accidents.

1  
2           So again, I know you've all heard the talk  
3 about that, but just to remind you, we would like to  
4 work with you on the local level to help you move these  
5 shipments through our areas.

6           ASSISTANT SECRETARY ROBERSON: Well, and we  
7 believe for the most part those working relationships,  
8 those processes are in place, but Jennifer's right.  
9 And I know she knows firsthand and I'm sure she knows I  
10 probably know firsthand just how complex and how much  
11 energy is required in this area. And it's working with  
12 the states, local governments, and quite frankly, you  
13 know, the federal agencies are involved in this. We've  
14 got opportunity all over the place, yes.

15  
16           But I don't have a specific recommendation,  
17 but I will tell you it is our intent and our  
18 commitment. I think we have a good basis upon which to  
19 build. But as it expands, it challenges more.

20  
21           MS. SALISBURY: Well, there's no magic  
22 bullet. It's just constant care and attention, I  
23 think, is really how it all works.

24  
25           ASSISTANT SECRETARY ROBERSON: Constant care  
26 and attention and compromise with all because we  
27 there's no magic. We can't zap stuff from one place to  
28 the other. We must use the systems that we know how to  
29 use safely or it doesn't move.

30  
31           MR. AJELLO: Okay. As I said, we're just a  
32 little bit behind schedule, but it's been a very good  
33 start to the morning. I want to thank Paul and Jessie  
34 for getting us underway.

35  
36           And we're going to take a short break, 15-  
37 minute break, so we'll be back by about 10 past the  
38 hour. And then we'll hear from Frank Sheppard on our  
39 acquisition strategy.

40  
41           And for those of you who are attending this  
42 morning, please be sure to sign in at the back of the  
43 room so we can document your attendance. Thanks very  
44 much.

45  
46           (Brief recess)

47  
48           MR. AJELLO: Okay. Let's get back on track.  
49 I thought the conversation this morning was very  
50 stimulating, and I think we had a great start to an  
51 excellent dialogue. And I was really delighted to get

1 that report card so early in the day because that helps  
2 us frame virtually all of our other discussions. So,  
3 appreciate everybody's involvement. I only wish we had  
4 more time.

5 Next on the agenda, Frank Sheppard. Frank is  
6 going to talk to us about acquisition management.  
7 Clearly, it's one of the key pillars of the program.  
8

9 I heard Paul Golan speak just a little while  
10 ago, a couple of months ago, and he said -- someone  
11 asked him the question, what do you do, and he said, we  
12 are all contract managers in a respect. So I think  
13 that's why this topic is very important.  
14

15 Frank, welcome. Thanks again.  
16

### 17 **Overview of EM Acquisition Strategy**

18

19 MR. SHEPPARD: Thanks, Jim.

20 Just before I get started in the  
21 presentation, Paul hadn't seen my slides but he kind of  
22 touched upon a lot of things that I'm going to talk  
23 about at a higher level. I'll go into a little bit  
24 lower level of detail and then give you just some  
25 philosophy on where we're going on day-to-day  
26 activities with our Source Evaluation Boards and our  
27 contract actions.  
28

29 I'm not a contracting officer per se. I  
30 participated in the negotiation of the Rocky Flats  
31 closure contract back in '99. Since then, Jessie has  
32 asked me to chair the Mound Source Evaluation Board,  
33 which I did, and renegotiated the Savannah River  
34 contract. I negotiated the terms of the Oak Ridge  
35 closure contract which was recently completed, and I'm  
36 currently serving as the SEB chair for the Idaho clean-  
37 up contract.  
38

39 But I also have been involved with some of  
40 these other actions. I'll give you as much detail as I  
41 can on the specifics of these contract actions.  
42

43 I'll start with the overall approach and  
44 where we're going with acquisition. And as Jim had  
45 pointed out, it's one of our pillars in the  
46 organization.  
47

48 Obviously, the overall mission for EM is to  
49 define clean-up scope and achieve work quicker, safer,  
50 and cheaper. A large part of what we're trying to do  
51 with the contract mechanisms are to get things done

1 quicker and cheaper. However, we want to make sure  
2 that we don't lose the safety aspect of that. We don't  
3 want to jeopardize any behavior or improvements that  
4 we're seeing in a safety area because we want things  
5 done quicker and cheaper.

6  
7 As Paul had mentioned, we developed an  
8 acquisition strategy back in December of 2002, and the  
9 purpose of that strategy was to lay out a five-year  
10 plan that systematically reviewed all of the EM  
11 contracts, whether they were coming up, the contracts  
12 were expiring or not. We wanted to go through and  
13 review all the EM contracts.

14  
15 Our major goal was to improve the contractor  
16 performance through the contract mechanism. And I  
17 think we -- David hit upon it earlier, is there's four  
18 basic elements that we need in a contract for a  
19 contract to be successful.

20  
21 One is you have to have the right contract  
22 vehicle, and that's what we're trying to do now, site  
23 by site, contract by contract. If it's not the right  
24 vehicle, either change the terms or conditions, modify  
25 the contract completely, or recomplete the contract.

26  
27 Then you need to have the right contractor,  
28 and that goes to the selection process and also the  
29 evaluation process of how well our current contractors  
30 are performing and raising the bar, as Paul had said.

31  
32 The next is the DOE oversight. What is the  
33 right level of DOE oversight. And we saw a significant  
34 culture change at Rocky Flats when we went from the  
35 traditional management and operating contract to a cost  
36 plus incentive fee type contract. We gave the  
37 contractor the flexibility to actually execute the  
38 contract, execute the project, and we had a refocus on  
39 safety oversight, financial oversight, project  
40 management, and regular DOE oversight.

41  
42 Part of the acquisition strategy also was to  
43 unbundle the EM work to increase opportunities for  
44 small business. Paul touched upon it this morning, but  
45 as I go through some of the details you'll start to see  
46 the magnitude of which we're providing opportunities to  
47 small business.

48  
49 And again, as Paul had said, and this comes  
50 down from Bob Card and Jessie, is EM sites should be  
51 managing the contract, not the contractor. We're not

1 there yet at a lot of sites. As I go around from site  
2 to site, that culture still exists where they try to  
3 manage the contractor and not the contractor. But  
4 again, it's experience, lessons learned from Rocky  
5 Flats, and as we go from site to site we have to try  
6 and change the culture on the federal side.  
7

8 The fourth element that's involved with not  
9 only the oversight but is the regulatory framework and  
10 the regulatory structure. As we do some of these  
11 procurements did it with Mound and we had it with  
12 Savannah River. Oak Ridge was pretty much in place --  
13 we actually talk with the regulators. We had the EPA  
14 and the state come in to Mound.  
15

16 We don't tell them what's going on for  
17 procurement sensitivity reasons. We try and give them  
18 a general flavor of what we're trying to accomplish,  
19 but we're also trying to define some of the work scope.  
20 As we sit and look and try to move toward performance-  
21 based contract, and particularly cost plus incentive  
22 fee contracts, CPIF contracts, we need to have a  
23 clearly defined statement of work. And that's been key  
24 in going from these -- from our old M & O contracts to  
25 the CPIF contracts.  
26

27 And it's been a challenge. It's particularly  
28 a challenge in Idaho, which I'll give a couple examples  
29 as we get into it.  
30

31 Where we've been successful at Rocky and now  
32 at Mound and Savannah River and Oak Ridge is we're  
33 going back and making sure the statements of work, the  
34 Section Cs or the RFPs in the contract, are very clear,  
35 that it's only focused on EM work, that anything that  
36 does not directly tie to clean-up or closure of the  
37 site should not be done and should not be included in  
38 the contract.  
39

40 The last part here as far as overall approach  
41 is the reorganization that we're going to implement in  
42 a couple weeks. We have one organization, which is the  
43 Acquisition Management, which is going to be under  
44 project improvement. So we'll have a team of people  
45 that are going to be focused on looking at the existing  
46 contracts and taking this acquisition strategy and  
47 institutionalizing it throughout the Department, not  
48 only at headquarters but also with the field offices.  
49

50 We also have a senior field procurement  
51 advisor that Paul talked about, Norm Sandlin, who works

1  
2 on targeted activities for Paul, policy, and also  
3 making sure that we have consistency from SEB to SEB.  
4

5 Part of what we want to do in our competitive  
6 procurement process is to make sure we take the things  
7 that have been working well at our previous CPIF  
8 contracts, like Rocky and Mound, and making sure they  
9 get implemented on our follow-on contracts. Those  
10 things that we can improve, we change. Those things  
11 that are working well, we'll take and fit in.  
12

13 The problem, as most of you know, with  
14 acquisition is there's no cookie cutter mold. You  
15 can't use the same contract vehicle. We use the same  
16 contract type. We're trying to get more performance-  
17 based incentives, but each site is unique. And I can  
18 tell you from experience Savannah River is completely  
19 different than Oak Ridge, is completely different from  
20 Idaho. But we're trying to make sure we get the  
21 principles and the elements of performance-based  
22 contracts in each of those contract areas.  
23

24 And as you said we've seen with the success  
25 of Rocky, we're going to save probably about \$5 or \$600  
26 million in the contract alone. From a \$4.4 billion  
27 contract, it'll probably be somewhere in the 3.4 to 3.5  
28 range. And again, going back to all those things  
29 aligning: the right contract, the right contractor,  
30 the right oversight, and the right regulatory framework  
31 and stakeholder involvement that we've seen.  
32

33 Part of that -- a big part of that success is  
34 the actual fee. And we've heard it a lot from our  
35 senior management, is if we're going to pay 2 to 3  
36 percent fee, we're going to get the "C" teams from a  
37 lot of these companies, the big companies and Bechtels  
38 and CH2M Hills and Fullers.  
39

40 What you'll see in a lot of these contracts  
41 as they're awarded are greater fee percentages. We  
42 want to pay to motivate the contractor to go out there  
43 to get the work done, provide new innovative approaches  
44 to work that we've been stagnant on our approaches in  
45 the past. As we've gone from site to site to do the  
46 negotiations and the competitions, you get the same old  
47 rhetoric. Well, this is what our baseline has said and  
48 this is what we've been thinking for the last 10 years.  
49

50 A lot of times we're just going to come in  
51 fresh and say, we don't care what the old baseline  
says. It's great as a reference point, but what else

1 can we do to get things done quicker, cheaper, and  
2 safer. And that's been our approach.

3  
4 And I think as we're seeing on some of these  
5 contracts, particularly at Rocky and at Mound and  
6 Fernald, if you put the money out there, you're going  
7 to get better management from the contractors and  
8 better ideas and more aggressive behavior.

9 Here are some of the things that we've done,  
10 and I've touched upon a couple of them. I'll just give  
11 you a little bit more detail.

12  
13 We revised the contract terms and conditions  
14 of the Savannah River contract. We included improved  
15 incentives both from a fee percentage perspective but  
16 also from a focused end state perspective, and  
17 redefined the DOE oversight. And again, this is still  
18 a learning process, particularly on the DOE side.

19  
20 The contract period extended through  
21 September 2006. One of the rules that Jessie and Paul  
22 gave me going in was that we were not to extend the  
23 contract period. So what we did was just modify the  
24 last three, three and a half years of performance, and  
25 I think we are really seeing the results in the last  
26 four to six months. As Paul had mentioned, M Area is  
27 just about closed. There are a lot of activities going  
28 on in F Area at Savannah River. And once we get  
29 authorization to proceed with F Canyon, the target  
30 schedule for F Canyon and F Area D & D is by the  
31 September 2006 date.

32  
33 If people were to think about this probably  
34 even last year that F Area would be closed within three  
35 years, they felt we were nuts. But this is now  
36 codified in the contract. And as soon as we get  
37 authorization to proceed, that work will start in  
38 earnest.

39  
40 Paul mentioned a couple of the other things  
41 as far as consolidation of the high-level waste tanks  
42 and also removal of all the F Area tanks under the  
43 target case and all of the H Area tanks under the  
44 maximum case by September 2006. What we do when we go  
45 into these contract negotiations and even in  
46 structuring the requests for proposals is we take the  
47 PMP, the Project Management Plans, that are already in  
48 place, and that's our starting point. So all of these  
49 contracts and contract mods will be PMP-plus. We're  
50 trying to drive as much as we can through accelerated  
51 clean-up at a lower cost.

1  
2 That was an M & O contract, a management and  
3 operating contract. It technically still is, but we've  
4 significantly changed and clarified Section C, which is  
5 the statement of work, and Section B, which provides  
6 the incentives. And it is performance-based with a  
7 target case clearly defined area by area and material  
8 by material.  
9

10 At Oak Ridge, there was a contract in place  
11 for a cost plus contract. There was a clause in there  
12 that allowed us to transition to a CPIF, cost plus  
13 incentive fee, contract, which we did, which we  
14 negotiated with Bechtel Jacobs, a CPIF through  
15 September 2008. And in that contract we have basically  
16 four elements, three of which are closure-type contract  
17 elements. One will be ongoing EM mission beyond  
18 September 2008, but through this contract incentive we  
19 have closure and removal of all low-level legacy waste  
20 by 2005, closure of Milton Valley by 2006, and closure  
21 of ETPP, East Tennessee Technology Park, by September  
22 2008.  
23

24 Those are all structured similar to Rocky  
25 Flats in that it's a closure. Those sites will be  
26 completely closed or the contractor won't earn his fee  
27 incentive.  
28

29 The fourth element in the Oak Ridge contract  
30 is a balance of program, which has additional ER clean-  
31 up work and other activities that will extend past  
32 September 2008. But that part of the contract is  
33 structured on an earned value basis and a schedule of  
34 variance percentage. And if they do work above the  
35 baseline, they get additional fee.  
36

37 So again, we've gone to a CPIF contract  
38 completely now at Oak Ridge, and what we're starting to  
39 see there is that the contractor is starting to drive  
40 EM. They're starting to come in to complain that EM is  
41 not moving quickly enough in some of the changes, which  
42 is what we want to see. But we have to work with the  
43 site and make sure that we change that culture of  
44 oversight, that it's not managing the contractor, that  
45 they implement the contract and allow the contractor  
46 the flexibility to go out to aggressively go after the  
47 project and also after the incentives that we put in  
48 place.  
49

50 We awarded just last month the Columbus  
51 Closure Project. That was to a small business. It was  
roughly \$30 million. That has been successfully

1 awarded and implemented.  
2  
3 We awarded what's called the indefinite  
4 delivery/indefinite quantity. It's the IDIQ contract.  
5 We awarded five contracts to 8-A companies which are  
6 targeted contract at different sites to go out to  
7 perform specific missions.  
8  
9 These were pilot awards to go out for  
10 relatively small awards, less than \$3 million, at  
11 targeted sites to go do ER work and D & D work.  
12  
13 There's another element that I'll talk about  
14 in a little bit, but that's the RFP process. But these  
15 were five pilot projects to specific 8-A companies.  
16  
17 The River Corridor Contract, which was  
18 awarded and protested, is currently under evaluation by  
19 EM, and I can't talk a lot about it now because we  
20 haven't made our final decision on what our approach is  
21 going to be. But we will be coming out with something  
22 shortly on that.  
23  
24 Well, we have a lot of Source Evaluation  
25 Board actions currently underway. Unfortunately, when  
26 I first started to do acquisitions full-time about 14  
27 months ago, we really just had the Mound contract we  
28 were focused on. Now we have about 14. I'm just going  
29 to hit about on the major SEB actions that are led by  
30 headquarters and under Paul's direct control.  
31  
32 I'll list them first and go through, but this  
33 shows you how many SEBs we have ongoing. Part of what  
34 Paul and Jessie's philosophy is, though, is typically  
35 when we ran SEBs at different sites, the site would  
36 have either all or the majority of the SEB board  
37 members as well as the Source Selection Official, the  
38 SSO). That's not the case. We're trying to get more  
39 aggressive behavior, trying to get thinking outside of  
40 the box at some of these sites, and trying to break the  
41 mold of doing business the same old way.  
42  
43 So a lot of these SEBs, you'll see the  
44 majority of the people are not site people. We still  
45 have the technical and legal and contracting advisors  
46 to the SEB panel, but the panel is mainly made up of  
47 outside, independent people. Right now it's primarily  
48 headquarters people, but as we gain expertise and train  
49 people from either other sites or from headquarters,  
50 you'll start to see more and more of that throughout  
51 the SEBs and with the source selection officials.

1  
2 But we have Idaho ongoing now, which is a  
3 major contract. We have what Paul talked about was the  
4 FFTF up at Hanford. We have Portsmouth and Paducah,  
5 which I'll go into detail on. That's actually four  
6 separate contracts, two SEBs. We have Glass Waste  
7 Storage Building No. 2 at Savannah River, and we have  
8 the RFP for additional work under the IDIQ contract.  
9

10 What I'm most familiar with because I'm the  
11 SEB chairman is the Idaho clean-up contract. We  
12 actually have two Source Evaluation Boards, one EM and  
13 one NE. This has been a challenge. We have an M & O  
14 contractor. It's a lab contract. We have some issues  
15 with the current contract structure, obviously. Over  
16 60 percent of the funds going there are not focused on  
17 physical work. We have over 60 percent of overhead  
18 costs.  
19

20 We are breaking out that contract, into two  
21 contracts right now by BBWI. Obviously, the EM mission  
22 is going to focus just on clean-up that's clean-up of  
23 six different geographic areas as well as continuing to  
24 work in RWMC and also in ENTEC.  
25

26 The other side of the house, the NE, is  
27 focusing on developing what Mr. Card calls nuclear  
28 renaissance at the Idaho National Laboratory. There's  
29 a significant focus on trying to build the capability  
30 and capacity of that the lab, and he's trying to really  
31 try that mission. We're trying to increase  
32 opportunities every day. We have a meeting this  
33 afternoon to try and work on some additional issues on  
34 how to get expanded opportunities and capabilities on  
35 the NE side. But it is clearly both contracts that are  
36 a major issue for the administration.  
37

38 Both draft requests for proposals have been  
39 developed, both the EM and the NE RFP. I won't go into  
40 a whole lot of detail. They've been reviewed by  
41 headquarters. We're going through our final comment  
42 resolution period.  
43

44 On the EM side, we have two other contracts  
45 for EM that work at Idaho. One is the vast missed  
46 waste treatment facility. That's a privatization  
47 contract with BNFL. We're still in the process of  
48 making our final decision on evaluating what scope of  
49 work, if any, is going to be included in the Idaho  
50 clean-up contract, the ICP contract. We have to take  
51 an action on that one way or another. We just haven't

1 made the final decision yet, but that's within the next  
2 couple weeks.

3  
4 The other side we have is a privatization  
5 contract for the packaging and shipping of spent  
6 nuclear material. We are now in an effort with NE and  
7 RW trying to resolve our programmatic uncertainties  
8 with spent nuclear fuel. RW has some increased  
9 interest now, NE has some interest, and we obviously  
10 are interested in getting the spent fuel out as soon as  
11 possible, but that obviously has to be coordinated with  
12 the opening of Yucca Mountain and RW.

13  
14 Again, we have a meeting this afternoon to  
15 bring all these entities together to try and figure out  
16 what the best approach is.

17  
18 Particularly as we try to develop our  
19 acquisition strategy for Idaho, and again going back to  
20 removing as many uncertainties as we possibly can in  
21 the statement of work, particularly with Idaho, there's  
22 a lot of uncertainties both from lawsuits that are  
23 pending as well as some of these uncertainties with  
24 high-level waste disposition, clean-up of Pit 9, and  
25 also with the disposition of spent nuclear fuel.

26 So right now we're looking at a number of  
27 different options and trying to figure out what the  
28 best corporate approach to both the programmatic issues  
29 but also from an acquisition strategy standpoint.

30 FFTF. This procurement is actually going  
31 very well. The draft RFP was issued September 22nd.  
32 Again, intended as a small business set-aside, which is  
33 an extremely large small business set-aside, up to \$400  
34 million. We've got comment resolution underway. We  
35 have no significant issues raised from either the DOE  
36 headquarters or from industry as a result of the draft  
37 RFP.

38 The final RFP is being prepared and is  
39 expected to be issued in early December. It may be  
40 even slightly ahead of the December 15th date. And we  
41 expect to have contract awards sometime between the  
42 June and September period, depending on if we need to  
43 go to discussions with the potential bidders. But that  
44 is well underway, and so far so good.

45  
46 Portsmouth and Paducah. This is fairly  
47 complicated. We have two SEB -- SEBs formed. When we  
48 first looked at the scope of work that needed to be  
49 performed at both, we broke up the contracts into four  
50 separate contracts, two at each site. One would be an  
51 infrastructure support services contract; one would be

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

a remediation contract.

Again, we intend to issue four separate contracts. We know that each of the infrastructure contracts will be small business set-asides. We hope to have the two remediation contracts also as small business set-asides, but we reserve the capability to award to a large business if we can't find enough capable companies to do both those activities.

We have the infrastructure RFPs issued, or will hopefully issue them within the next week. The remediation RFPs are expected to be issued around January 2004. And we expect to have all the contracts awarded by August 2004.

This has been just a little bit of a complication both from the fact that we're breaking it out from the current contract, BJC, which was operated under the Oak Ridge contract plus with trying to separate the work scope and then also defining the interface points between each of the four contracts and how they're going to operate with the Portsmouth and Paducah oversight office out of Kentucky.

Glass Waste Storage Building No. 2. Relatively simple procurement. It's modifying an existing design of Glass Waste Storage Building No. 1 at Savannah River for the storage of the glass waste coming out of DWPF. We've issued the draft RFP. There's a pre-proposal conference being conducted December 2nd to identify potential small business offerors.

We expect proposals back currently dated January 5th of '04, and we hope to have the contract awarded in March of 2004 for a construction type contract.

This is the second phase of the IDIQ contract. We have an RFP that's issued. We expect responses back by December 1st. And what we expect to do here is to allocate the task 80 percent to small business but also have 20 percent identified for large businesses.

The structure of the contract is to have a pre-qualified list of contractors through the RFP process and then award task order contracts through the limited competition within the three groups identified,

1 one for ER-type work, one for D & D of contaminated  
2 facilities, and one for D & D of non-contaminated  
3 facilities.  
4

5 And we've identified through our baseline  
6 process some of the smaller sites already that I think  
7 Jessie wants to reserve the money here at headquarters  
8 and issue directly through the IDIQ vehicle down at  
9 Savannah River. But it's not only a government  
10 vehicle; the contractors existing contractors can come  
11 in and apply money on these task orders as well. So if  
12 you get a contractor at different sites who needs some  
13 additional subcontractor support in these areas, they  
14 can also use the Savannah River vehicle.  
15

16 As Jessie talked about, this is also kind of  
17 a hammer where we put a clause in our contracts as  
18 we're modifying them that if performance isn't up to  
19 par for some of our prime contractors, we can pull that  
20 work back and go directly -- use the IDIQ process to go  
21 award targeted activities, targeted contracts that  
22 focus on critical path activities or critical  
23 activities at different sites.  
24

25 So we've covered a bunch of the contracts  
26 that we've gone through quickly, but what we've done  
27 over the last 16 months and what we're starting to see  
28 more from a tangible perspective -- and I just came  
29 back from Rocky Flats. I hadn't been there in a year  
30 and a half, but we had a conference out there where we  
31 called in the other sites. It was specifically a  
32 government-furnished services and items contract.  
33

34 It's back to our contract philosophy of when  
35 we put the CPIF contract and other performance-based  
36 contracts in place, you really need to have a project  
37 team approach to make sure that we can effectively  
38 execute these contracts.  
39

40 And the project team involves the contractor,  
41 the site oversight, but also the headquarters  
42 organizations. In a lot of cases, it's not just EM.  
43 Particularly when we looked at Rocky Flats, there were  
44 about 14 other sites that are involved in one way or  
45 another with the closure of Rocky Flats. It's just not  
46 Kaiser Hill doing the closure at Rocky, it's just not  
47 Westinghouse doing the clean-up work at Savannah River.  
48

49 What we're finding is you have container  
50 certification issues both with EM and NNSA. You  
51 obviously have WIPP involved, NTS involved, Envirocare

1 involved, Hanford involved, Oak Ridge involved with  
2 enriched uranium. You have NNSA for transportation of  
3 spent nuclear material. We're going to have RW  
4 involved with the transportation of spent nuclear fuel.

5  
6 So we had a conference out there to make sure  
7 that we're focused on not only the right level of  
8 oversight by the DOE offices but also the integration  
9 of activities and the projectization of the GFSI and  
10 deliverables by the government's part, government's  
11 half of the contract, to deliver those services and  
12 items on time consistent with the contractor's contract  
13 -- with the contract we have in place, but also the  
14 contractor's baseline that they submit.

15  
16 And like I said, we're aggressively going out  
17 there and changing the contract and, from all results  
18 so far, significantly improving the performance and  
19 achieving a lower cost.

20  
21 We're reorganizing a focus on improved  
22 acquisition management. We're going out there, and  
23 through the acquisition and competitive procurement  
24 process we're going out and treating the bidders like  
25 customers. We go in with the mentality that we have to  
26 deliver high quality products through the RFP.

27  
28 We have to improve the process to make sure  
29 that information is readily available. Most, if not  
30 all, of our procurements have web pages specifically  
31 designated for the acquisition itself. We put the  
32 reference documents out on the web page. We answer  
33 questions and answers usually within a day. So we're  
34 trying to treat the overall process and improve the  
35 overall management and treat it like a project in and  
36 of itself.

37  
38 As Paul had said, he calls each of the SEBs  
39 and SSOs monthly to go over their acquisition  
40 schedules, and he's holding them to their dates. In  
41 some cases, if they're not on track, they're not on  
42 schedule, we've replaced SEB chairs and SSOs. So  
43 there's a lot of attention on the overall process and  
44 approving both the scheduled performance of our  
45 acquisitions and also making sure that we get improved  
46 performance when the contract is actually awarded.

47  
48 Again, within the last year we've targeted I  
49 think it's over \$800 million life cycle cost of work  
50 scope to small business. I think we're at a point now  
51 where we've grown and provided so many opportunities

1 out there, at the same time we kind of have to just sit  
2 back and wait for a couple months and see how well it's  
3 going to work.  
4

5 A lot of the small business feedback that  
6 we're getting is, you know, you need to sequence them  
7 better because we can't bid on all the contracts that  
8 you have coming out now. A lot of times we're not  
9 going to wait and do that, but there are a lot of  
10 opportunities and a lot of different geographic areas  
11 that are going out specifically to small business.  
12

13 We need to make sure that when we execute and  
14 then award these contracts that we're making sure that  
15 we're complying with the SPA regulations. Some of  
16 these, as we start to get into the larger dollar  
17 amounts, you need to make sure you look at the size  
18 standards. We'll have teams of small businesses, we'll  
19 have teams of small businesses with large businesses.  
20 We have affiliation issues that we have to make sure  
21 that as we put these things out we're not too  
22 aggressive and we're making sure that we're actually  
23 serving the purpose of getting the dollars to small  
24 businesses and making sure that they grow.  
25

26 We're working with the NE folks here in  
27 headquarters and the Small Business Administration on  
28 improving our mentor-protégé relationships. We have  
29 constantly, probably once a week I have small  
30 businesses or large companies coming in wanting to talk  
31 about small business opportunities.  
32

33 We had an EM workshop that was a follow-on to  
34 a DOE small business workshop. We had about 350 people  
35 down in Nashville a couple months ago.  
36

37 So there's a lot of interest out there. I  
38 think we're providing a lot of opportunities  
39 significantly within the last year. We just have to  
40 make sure we don't throw everything out there. We have  
41  
42 to make sure that we execute the competitive process  
43 correctly.  
44

45 And again, following up with continuing to  
46 improve the competitive procurement process. We listen  
47 to feedback from the contractor communities. We're  
48 constantly trying to get more. I think from the Mound  
49 process on, I think we're getting a lot better. We  
50 have a lot of procurements going on in parallel now.  
51

1           So the consistency isn't going to be where I  
2 would like it to be and where Paul and Jessie would  
3 like it to be yet, but as we get the organization up  
4 and running and continue to improve from procurement to  
5 procurement to procurement, hopefully you'll see each  
6 acquisition come out with better and more significant  
7 accelerations but also a better process and a better  
8 quality product in the end.  
9

10           MR. AJELLO: All right. Thanks very much.  
11           Let me kick us off with a couple of  
12 questions, if you can spend a few minutes with us.  
13

14           MR. SHEPPARD: Sure.  
15

16           MR. AJELLO: Small business. I'm having  
17 trouble remembering what the criteria are. Somewhere  
18 in the back of my mind I'm thinking up to 600 people.  
19

20           MR. SHEPPARD: Yeah.  
21

22           MR. AJELLO: There's a -  
23

24           MR. SHEPPARD: There's different size  
25 standards for different activities. Your activities  
26 are generally, you can have a dollar limit, I think, up  
27 to \$12 or \$14 million, or up to 500 employees.  
28

29           Part of what we're working a lot with Steve  
30 Mournighan and NE and Small Business Administration is  
31 the teaming. Because of the dollar value and the type  
32 of contract you want to put out there, some of them,  
33 like I said, we just have to be concerned with the size  
34 standard. When you team, you could have a company of  
35 450 and another team of 450 and it's not a cumulative  
36 effect. You can still have that and still be counted  
37 as a small business award.  
38

39           What we're dealing with is trying to meet the  
40 objective, and I think we're doing a great job, of  
41 having direct Federal procurements. The measure now is  
42 a secondary measure, of how much money goes through our  
43 primes to our subcontractors at the bigger sites. The  
44 measure now is moving toward how many direct Federal  
45 procurements do you have.  
46

47           So that's why we're really looking at what  
48 type of contract and what size of contracts that we  
49 want to have as strict set-asides.  
50

51           Now, I've touched upon a couple that are

1 strict set-asides. We're also, as we're continuing to  
2 look at Idaho, as we look at the large contracts, the  
3 \$3 billion contracts, is there any opportunities there  
4 to carve out specific scopes of work that have direct  
5 target at the small business.  
6

7 I won't tell you what we concluded on Idaho.  
8 It'll come out in a couple weeks. But we're looking  
9 at it from an EM perspective but also from an overall  
10 site perspective on what other NE or safeguard  
11 security, whatever type of contracts we could break  
12 out.  
13

14 So we stayed focused and found that, we have  
15 a lot of parallel procurements going on. We have a lot  
16 of them specifically designated to small business. But  
17 again, we're still kind of learning on the size  
18 standards and how to make sure that our contracts  
19 conform with the appropriate rules.  
20

21 MR. AJELLO: It seems to me -- well, I don't  
22 have all the history, but your \$800 million, if you  
23 were able to achieve that, is probably something like  
24 11 percent of the entire budget of the program. I  
25 don't know what the annual number or not -  
26

27 MR. SHEPPARD: That's the life cycle of some  
28 of the contracts we have so far, so. But if you look  
29 at Portsmouth and Paducah, it's about \$100 million a  
30 year. If we get all four awarded, that's 100, you  
31 know, \$200 million a year, \$400 million over a 10- or  
32 12-year period for FTF. The IDIQ has a limit of \$800  
33 million.  
34

35 Now, it all depends on how you execute those  
36 and how many task orders you put, but there's a  
37 significant percentage of dollars going to small  
38 business.  
39

40 MR. AJELLO: Are you still getting a lot of  
41 requests from third parties to make more and more  
42 volumes of these contracts small business set-asides?  
43  
44

45 MR. SHEPPARD: We actually, I think the NE  
46 folks have been pretty happy with what we're doing. We  
47 had discussions with them early on about, you know,  
48 what portion, if any, of Idaho. And typically, when we  
49 got a request before, I know that my experience -- and  
50 I'll tell you a little about the learning process -- is  
51 I didn't know anything about the competitive process

1 before I went into the Mound SEB. Took over and we  
2 were already two months behind schedule.  
3

4 So took over as chairman and we were marching  
5 straight ahead full force on trying to get the RFP out.

6 And when we tried to get it approved at headquarters,  
7 the people who stopped it were the small business  
8 people. And I didn't know anything about the goals or  
9 objectives or anything else, so that was hitting a  
10 brick wall. You know, it was a learning process for  
11 me.  
12

13 It's significantly different now. That was  
14 14 months ago. It's significantly different now where,  
15 you know, we're just trying to keep up with as many  
16 opportunities that we have out there from an EM  
17 perspective.  
18

19 MR. AJELLO: Let's go back to yours. What  
20 would the number be compared to the 800 number that you  
21 cited a couple of years back?  
22

23 MR. SHEPPARD: I don't know what the exact  
24 number is, but it could have been almost none because  
25 none were direct Federal contracts. A lot of it was  
26 the flow-down of prime dollars to subcontracts, through  
27 subcontracts to small business at Rocky and Mound and  
28 Hanford folks. But we had very little, you know, very  
29 little direct federal prime contracts.  
30

31 MR. AJELLO: Dave.  
32

33 MR. SWINDLE: Frank, that was very good. I  
34 hope you're able to stay at least for what Jim and I  
35 have talked a little bit about, some of the  
36 observations.

37 I did want to focus on one thing that, if you  
38 look at their, and this may not be a correct  
39 characterization, but almost four phases that any  
40 procurement goes through. You've got the period from  
41 the decision-making what the statement of work is, what  
42 requirements, you know, what you're going to hold a  
43 contractor in performing accountability to. That's  
44 inherently Federal when you look at it. With some  
45 input from various stakeholders, clearly.  
46

47 You get into the competitive phase. That's  
48 full and open, basically, for all intents and purposes.  
49 At the same time, there's boundary conditions put in  
50 there in terms of the level of interaction.  
51

1           The decision phase, which is where I want to  
2 come and focus on a moment. There's one after the, you  
3 know, the RFP or the proposal is submitted until a  
4 decision is made, and that clearly is inherently  
5 Federal.

6  
7           And then the final phase is any transition or  
8 implementation.

9  
10           And one of the things that struck is, and  
11 this is almost crude and it's not just limited to DOE,  
12 is let's call it the wide spectrum. You know,  
13 sometimes solicitations, and this is coming back and  
14 getting private industry to participate as you can see  
15 from the time an RFP for literally tens of millions of  
16 dollars of contracting, as little as a month decision  
17 process to two years. And that cycle becomes very much  
18 a factor of uncertainty.

19  
20           I guess when I think of those four phases,  
21 and again, perhaps as you're continuing to unfold and  
22 look at the whole area and continue to improve the  
23 processes. In each one of those four steps, and again  
24 I zero in on that decision part, more companies walk  
25 away when they see a year-long decision because you  
26 can't keep people committed and the like. Look at the  
27 work processes in each one of those four phases and  
28 look for efficiencies to be gained.

29  
30           MR. SHEPPARD: Yeah. No, that's a very valid  
31 point. And I think what we're going, we're starting to  
32 see a lot of improvement in some areas, and we  
33 obviously still need to work on a lot of different  
34 areas.

35  
36           But the major feedback I got from the Mound  
37 proposal was, as long as we put a quality product out  
38 there -- and that's the first phase. You develop the  
39 RFP; the statement of work is clear and concise. Part  
40 of what, and again, not being a contracting officer but  
41 getting back to the contract processes, you read some  
42 of these things and they're just not in English. And  
43 you read pages and pages, and I couldn't even interpret  
44 what we intended to mean on some of these existing  
45 contracts.

46  
47           We literally, and it's good to have -- you  
48 need to have a legal advisor and a contracting officer  
49 on your SEBs. My guidance to them is, just tell me  
50 when I get into the illegal phase, you know.

51

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

(Laughter)

MR. SHEPPARD: Unfortunately, you can't change a word of a FAR clause, even if it makes sense grammatically or not. So those things I've kind of learned, but for everything that's outside of the standard FAR clauses or -- make sure you're in compliance with all the laws and regulations. At least in my SEBs, we're trying to make sure everything is in English.

If it doesn't tell the contractor to do something in a statement of work, it shouldn't be in there. Try and get these things down from 50 pages of statement of work down to 14 which focus on the end state, the end objectives aligned with our incentives, and let the contractor go out there and do it.

We don't have to be so prescriptive in these things. If we do that, like I think we were successful in Mound, then those other periods can be much crisper. And what Paul has instituted and what we started with at Mound is we put together a procurement schedule. So we have a schedule for each SEB. We have major milestones, the decisions, when they're all supposed to come back, and Paul's tracking them like a project.

So if we put the quality product out, what we want to do also is keep the proposal period down. We had a 45-day proposal period on Mound, and you know, the biggest complaints came from the lawyers here and the NE folks saying, that's not enough time. You're going to have people protesting left and right. And we didn't have any protests, luckily, on Mound, but that period was time enough.

And the feedback from the contractors were, you know, if you gave us 90 days, we'll go 90 days. We'll spend 90 days' worth of money. You know, 45 days was fine.

So we're really looking at a proposal period you know, for a larger contract like Idaho it's probably going to be a little longer than 45 days, but it's not going to be significantly long.

You get the proposals in. We have to kind of keep to the same schedule. And what we did is we had a mirror schedule on Mound. We asked for 45 day proposal period. We should have been able to do the evaluations in 45 days. And we stuck to that. You obviously have the SEB process who prepares the report, and then the

1 document goes to the source selection official and they  
2 make their decision. We have those times built into a  
3 schedule.  
4

5 The schedule goes all the way to contract  
6 award. Now, what we've seen, which I wasn't involved  
7 with, on River Corridor, that dragged on and dragged on  
8 and dragged on. They went to several rounds of  
9 discussions, which I think are part of the process of,  
10 you know, do we have the right quality product out  
11 there; how was the evaluation conducted; what can we  
12 learn from there. We are definitely studying what  
13 happens at River Corridor and making sure we don't  
14 repeat that in a lot of these other procurements.  
15

16 But at least some of the ones -- the more  
17 recent ones that we're seeing, we're trying to stick to  
18 that schedule because you're exactly right. I mean, we  
19 expect those proposals to be submitted and only valid  
20 for a period of time, not a year, a year and a half.  
21

22 If you go through the effort and spend the  
23 money to put the proposals together, we want to make  
24 sure that we're disciplined enough in the formalities  
25 area, that we have the SEB report done in a reasonable  
26 time. If we need to go to discussions, our discussions  
27 ought to be targeted and short. If we want to know --  
28 if we haven't asked for something or we need  
29 clarification, that period ought to be very short. Get  
30 the decision up to the decision-makers, have them do  
31 it, and implement it right away.  
32

33 DR. FERRIGNO: I've got two questions. Can  
34 you hear me now?

35 (Laughter)

36 MR. SHEPPARD: Was that your first question?

37 (Laughter)

38 DR. FERRIGNO: No.

39 (Laughter)

40 MR. AJELLO: No soft quality in this crowd.

41 (Laughter)

42 DR. FERRIGNO: On the IDIQ contract, 800  
43 million capacity, whatever it might be, how do you  
44 envision that being utilized when you have, let's say  
45  
46  
47  
48  
49  
50  
51

1 sites like Savannah River, Hanford? I mean, I realize  
2 it's -- at least we were told it's a hammer or it's a  
3 way to self-perform. It could be even what we called  
4 in the construction experiences of having a force  
5 account capability where you go in and do something  
6 because your contractor either doesn't have the time or  
7 the resources or may not be performing.  
8

9 But with regards to budget and your current  
10 contracts, how do you envision that working with these  
11 contracts that lay out for five years and now, all of a  
12 sudden, you might assign an IDIQ from somebody who  
13 isn't that contractor at that site?  
14

15 MR. SHEPPARD: Well, again, this is probably  
16 just going to be a big year of the learning curve for  
17 this. I sat in on a baseline review meeting last week  
18 where we went through a number of the small sites that  
19 had just kind of lingering projects that either had to  
20 complete a small D & D project or a DR activity or a  
21 groundwater and document it and get it done with. And  
22 they've kind of been hanging on and hanging on.  
23

24 And we've gone through like 14 sites. I  
25 would say over half of them Jessie told Roger -- Roger  
26 Butler, that's a perfect candidate for IDIQ. We should  
27 hold back those funds and not even give them to the  
28 site and direct the contract to the IDIQ.  
29

30 If you look at that, that order of magnitude  
31 is probably going to be very small as we get out of the  
32 box here. Probably total of less than \$100 million.  
33 But as we look to some of these other activities, like  
34 if the IDIQ were in place before we did Portsmouth and  
35 Paducah, I think it's going to be a vehicle that we can  
36 use on upcoming procurement decisions.  
37

38 We have WIPP. That's four separate contracts  
39 that are coming up, over the next year and a half  
40 where, we have the IDIQ in place, rather than even  
41 going out, you still have both vehicles. You can go  
42 out and competitively bid to small business, but if  
43 it's strictly an ER project that's clearly defined  
44 scope of work or D & D of either contaminated or non-  
45 contaminated, we can go and directly apply those funds  
46 and really save on the procurement process.  
47

48 I think EM applied contracts are going to be  
49 relatively small within the next year, but I expect it  
50 to grow. But I don't have a projection over the next  
51 three to four years.

1  
2 As far as the contractors using them, I don't  
3 know the answer. We have been looking at Savannah  
4 River, when we restructured that contract, you have  
5 \$1.15 billion a year that we jammed a lot of D & D and  
6 a lot of ER activities that weren't in the previous  
7 contract. So now we're posing a challenge to us at  
8 Savannah River to go out there to get D & D done in a  
9 lot of different areas.

10  
11 One of the things that they may do,  
12 particularly since the contract vehicle is there as  
13 well, is, hey, I'm going to have, you know, I'm not  
14 going to spend a whole lot of my senior management at  
15 Westinghouse Savannah River focused on this activity.  
16 Let me go get an IDIQ, put the money out there. They  
17 don't have to go through the competitive procurement  
18 process. They can save some time. Let these guys go  
19 out and take out S Area or M Area or part of F Area.  
20

21 But again, that's still to be determined. I  
22 think we'll have the majority of it, maybe up to \$100  
23 million, of EM dollars. Probably a little bit less  
24 from the first prime contractors, but again it all  
25 depends on how they work, how, you know, what type of  
26 contractors or quality of contractors we have selected  
27 and available.  
28

29 I imagine that once we select them, we'll  
30 advertise the list out to all of our DOE primes and  
31 say, Companies A through, you know, D or E in each area  
32 are now available to use. You have the funds; you can  
33 direct transfer the funds and they can start working as  
34 soon as possible on a task order.  
35

36 So I think it's a good vehicle. It's still  
37 to be determined yet on how effective it's going to be.  
38

39 DR. FERRIGNO: Thank you. I have another  
40 question.  
41

42 With regards to some of the upcoming  
43 procurements, and I don't want to isolate any one of  
44 them, obviously, for the sensitivity, but it's a  
45 generic question. When EM went for their budget for  
46 \$7-plus billion dollars, some of the justification for  
47 that budget was the performance measures that would be  
48 anticipated, whether it be containers of transuranic  
49 waste shift per site or low-level waste or mixed waste.  
50

51 In your procurement structuring, are you

1 prescripting at least anticipated volumes, and are the  
2 contractors signing up to that? Or are you leaving  
3 that open to the contractor?  
4

5 MR. SHEPPARD: Now, in most cases now the  
6 goal chart metrics line up with the PMPs. And as we go  
7 into each of these, whether negotiations or modifying  
8 the terms and conditions or competitions, we're  
9 structuring the statements of work to at least meet the  
10 goal metrics chart, or exceed that.  
11

12 But for each of the performance-based  
13 contracts, for the most part we're literally going down  
14 and saying, this is what you will have done. Like in  
15 Savannah River, for example, we went in and used the  
16 goal metrics and said, you're going to have the 12  
17 tanks in F closed in the target case. In the max case,  
18 you'll have the 12 tanks in H closed. You're going to  
19 have 3.5 million gallons of high-level waste done. And  
20 that's going to be built into their baseline.  
21

22 So for those high-visibility, high-risk  
23 activities, we're specifically calling that out. And  
24 the same thing generically when we write an RFP. As we  
25 go into the areas, you know, say at Idaho. If you're  
26 looking at Mound, or wherever, Rocky. You're literally  
27 going in and saying, we want D & D of 115 facilities by  
28 this year, we want the removal of 6 million gallons of  
29 high-level waste. We want all the high-level waste  
30 shipped off site. We want so much spent nuclear fuel  
31 shipped off site by these end dates.  
32

33 Now, we're giving them a little flexibility.  
34 We're not going year by year by the existing goal  
35 metric chart. We're trying to look at the end point  
36 and see how much we can get done totally in aggregate  
37 at the end of the contract period.  
38

39 What we allow for them to do is to come in  
40 with a either revised baseline or competitive  
41 procurement, submit a baseline within 90 days that  
42 reflects the terms and conditions of the contract.  
43 That'll include a revised goal metrics chart.  
44

45 Now, in all cases, that goal metrics chart  
46 will come into Change Control along with a PMP and  
47 should in all cases exceed whatever their previous goal  
48 metrics were for that site.  
49

50 DR. FERRIGNO: Change Control being the  
51 Configuration Control Board?

1 MR. SHEPPARD: Right. They'll have a one-  
2 time change when they submit their baseline, and we had  
3 at Savannah River, Oak Ridge, and any competitive  
4 contract, the contractor will have an opportunity to  
5 reform his baseline to match up with the revised terms  
6 and conditions of the contract. He'll have a one-time  
7 change control action that will incorporate all those  
8 things both into the PMP and also the goal metrics.  
9

10 DR. FERRIGNO: Thank you.  
11

12 MR. AJELLO: Frank, there you mentioned  
13 during your presentation that there have been some  
14 protests around some of these activities. What do you  
15 think some of the lessons from those protest activities  
16 are? Do you see this as a normal part of the change  
17 that you've been going through as you recalibrate the  
18 way you do these things? And what are the lessons that  
19 you've taken out of some of these protests that have  
20 come about in the last year or so?  
21

22 MR. SHEPPARD: I think the only protest I  
23 know of is the River Corridor protest. I know we had a  
24 size standard challenge on Columbus. That was  
25 overcome. It was just a clarification and didn't delay  
26 our problem at all.  
27

28 So if you look at just the River Corridor,  
29 I've studied the GAO findings. I wasn't involved in  
30 the SEB. That was, actually, an SEB that had started  
31 even before our Mound SEB started. And it kind of goes  
32 back to David's comments about, you know, a process  
33 that went on for way too long and you know. So you go  
34 back and you try and dissect what happened.  
35

36 My personal opinions, GAO withheld -- upheld  
37 the protest, so again, we're looking at how to fix that  
38 now and what EM's approach is going to be.  
39

40 When you go back and you look at the RFP, you  
41 have the two parts. You have the technical part and  
42 the cost part. And without getting into any details,  
43 the protest was held up on the cost part of it.  
44

45 So we've gone back. I called, actually, all  
46 the SSOs and SEBs together as soon as we got the GAO  
47 findings on the River Corridor. We went through it to  
48 find out what the mistakes were, what the errors were,  
49 what the issues were, and what GAO's comments were.  
50

51 And as we start to look at how to form our

1 RFPs now, we're putting particular focus on the cost  
2 part of it and how were they evaluating cost proposals  
3 when they came in.  
4

5 Again, with anything, and I may have been  
6 lucky in a lot of cases, you have two parts. You have  
7 the RFP that goes out, but you also have the quality of  
8 the proposals that come in. And in this case, it was a  
9 little bit unique and a little bit diverse. And it was  
10 a challenge for the evaluation side of it. And things  
11 didn't go as well as we had thought.  
12

13 But again, we hopefully are taking that from  
14 a lessons learned perspective and making sure that our  
15 follow-on procurements or our upcoming procurements  
16 don't experience the same type of things.  
17

18 But if any of you have been involved in the  
19 evaluation process, it's not a black and white process.  
20 You could get multiple proposals in and you could have  
21 a myriad of different complexities both from a  
22 technical standpoint, a technical proposal, and also  
23 from a cost proposal. And it gets fairly complicated  
24 although it's, you know, best value for the government.  
25 It's a pretty generic term and open to a lot of  
26 interpretations from a lot of different people.  
27

28 But obviously, we need to make sure that our  
29 SEB chairs and SEBS and SSOs are aware of some of the  
30 issues that come up on some of these things and then  
31 how to make sure we can avoid some of those now. Even  
32 NE and GC obviously are paying particular attention to  
33 some of the cost evaluation pieces that we have.  
34

35 We've spent a lot of time even with the  
36 Columbus Project, which is a \$30 million project,  
37 making sure that we have everything in the cost  
38 evaluation side and the technical side was done, but we  
39 paid particular attention to the cost evaluation piece  
40 of that procurement.  
41

42 MR. AJELLO: You mentioned the FAR rules were  
43 pretty rigid as to language. Is that another way of  
44 saying some of these procurement rules are not flexible  
45 enough for a program of this magnitude and complexity?  
46 Or do you feel you have all the right flexibility in  
47 those right sway in those rules to do what you need to  
48 do?  
49

50 MR. SHEPPARD: I don't think there's enough  
51 flexibility. I mean, I think even to change the

1 process, you know, to change a couple words we'd have  
2 to at least get the approval of Richard Hoff here. And  
3 you know, as we look at some of these things, it some  
4 cases, if we look at the magnitude of some of the  
5 changes, it wasn't worth the fight.  
6

7 We have and I think part of what Norm's job  
8 is, and also the Acquisition Management Group, is to  
9 continue to work with NE folks here, who are the FAR  
10 experts, to see what kind of increased flexibility we  
11 can get in a lot of these things.  
12

13 Like I said, in the guidance I give to the  
14 other SEB chairs are, you know, your guidance to the --  
15 to the contracting officer and legal people are, don't  
16 say anything unless I'm going out of bounds, you know.  
17 You know, don't tell me -- I heard it from site to  
18 site to site. That's not the way we usually do it, and  
19 that wasn't in the last contract. And things that we  
20 change we're changing and simplifying, and it would be  
21 great to have increased flexibility, particularly in  
22 the area of FAR, but we're trying to deal with it as  
23 best we can. The major pieces, we're okay.  
24

25 The area that we're trying -- we still  
26 struggle with this fee range. I mean, we're at M & O,  
27 you know, 2 to 3 percent. And now we're really getting  
28 up there. And part of what we have to balance is  
29 making sure we establish, particularly in CPIF  
30 contracts, what the right target fee is, what the right  
31 min and max fees are.  
32

33 And some of these contracts, you know, our  
34 target fees are around 6, 8 percent, and max are  
35 getting up to 12, 14 percent. So when you start to put  
36 that much money on the table, then you really have to  
37 make sure, which we have to make sure anyway, but that  
38 our independent cost analysis and our target costs  
39 going in are accurate.  
40

41 At Rocky now, which is I think a good thing  
42 to have, which was our first CPIF contract, we think  
43 the contractors expect to earn max fee. So you know,  
44 the condition is, do you want them to slow down? The  
45 contractor thinks he could actually do it quicker and  
46 cheaper than what our max fee structure provides. So  
47 do you tell him, slow down, where we don't want to save  
48 70 cents on the dollar for the government? Or you  
49 know, extend it out a period?  
50

51 I don't think that's a condition we want to

1 be in, but the other side of that is, well, now you're  
2 starting to, you know, give a significantly high  
3 percentage of fee out there.  
4

5 But our deal going back in at 2000 was we  
6 felt a deal at 4.4 billion to close Rocky Flats by 2006  
7 was a great deal. Eighty-five percent of the people  
8 didn't think we'd close by 2010. Now we can close in  
9 2005, or earlier, at probably somewhere around 3.3 or  
10 3.4, plus the fee. Or 3.1 plus the fee on top of that.  
11 We're saving \$6-, \$700 million.  
12

13 But again, it's taking that and looking at  
14 our other contracts and say, okay, where were we wrong  
15 in the estimates. And again, continually raising the  
16 bar. If D & D cost -- if it took six months to get a  
17 glove box out of Rocky two years ago and they're  
18 getting them out now in a couple days, that's our  
19 standard going into these other procurements. Just  
20 because maybe an incumbent contractor at a different  
21 site can't do it that quickly, we're not going to give  
22 any kind of relief in that area. We're going to hold  
23 them to increased standards and make sure we get  
24 improved performance like that across the board.  
25

26 MR. AJELLO: I always found it interesting,  
27 maybe it's my affliction as an ex-banker, that most  
28 enterprises when looking at a project in terms of  
29 getting it done sooner, not only are the absolute cost  
30 savings but would look at working capital and the cost  
31 of funding the extra two or three years.  
32

33 So if I closed a project in 2007 versus 2010  
34 and I had to fund those additional three years, I would  
35 look at that as a huge element in my incentive to make  
36 it happen sooner.  
37

38 The government has to go out and fund itself.  
39 They use Treasury bonds.  
40

41 MR. SHEPPARD: Right.  
42

43 MR. AJELLO: And one of the cost benefit  
44 items that I would suggest you use is think about that  
45 because it can be a very revealing number. You look at  
46 how the acceleration premise on just the cost of  
47 capital impacts your savings. It is pretty dramatic.  
48

49 I know that's not a typical metric in the  
50 program, but I tell you the rest of the world is very  
51 focused on those kinds of things when you run major

1 projects. And it's something that I think is another  
2 element of this that is very interesting. That's a  
3 personal comment.

4  
5 MR. SHEPPARD: Sure.

6  
7 MR. AJELLO: Okay. Any other questions?

8  
9 Frank, thanks a lot.

10  
11 Oops, sorry. Lorraine, I'm sorry.

12  
13 MS. ANDERSON: Just one. You know there's a  
14 great deal of skepticism from local governments that  
15 when you cut the cost of the clean-up that maybe you're  
16 taking shortcuts and you're not doing as good a clean-  
17 up. Do you have a solution to that?

18 MR. SHEPPARD: I think from both talking to  
19 stakeholders generically, which include the regulators,  
20 although we don't give them a lot of details. We don't  
21 give them any details, really, of the actual RFPs when  
22 they come out. We're in discussion.

23  
24  
25 We've had a couple conference calls with the  
26 Idaho regulators, at least. Also, not the stakeholders  
27 per se. But we want to make sure that we are  
28 constantly improving the relationship not only with the  
29 regulators but also the stakeholders.

30  
31 In some cases, it's going to be an  
32 educational process where we have to come in and be  
33 proactive and say, here's our approach. And I think  
34 Jessie touched upon it even with some of the regulators  
35 before is, they wanted a certain amount of ER  
36 activities done, or you had to spend at least \$100  
37 million at Savannah River in ER activities. Those were  
38 relatively low-risk activities.

39  
40 We have to come in and make sure they know  
41 what our acquisition strategy is, they know what our  
42 acquisition plan is, they know what -- what our  
43 objectives are trying to come in, and then also  
44 identify for them what kind of flexibility we need for  
45 them. At Rocky Flats with -- with the RFCA, there was  
46 a tremendous amount of flexibility and cooperation, and  
47 that's one of the key successes in making sure that's  
48 done earlier but it's not jeopardizing the final clean-  
49 up level.

50  
51 What we want make sure that we portray both

1 from a safety standpoint but also from a risk-based end  
2 state standpoint is, we're not going to jeopardize the  
3 final risk -- risk end state.  
4

5 What we are going to do, how we are going to  
6 cut corners are the way we do things, like cutting up  
7 the glove boxes versus, you know, sawing off the legs  
8 and putting them in a -- in a standard waste box and  
9 shipping it out. Instacoding, you know, 150-ton  
10 machines that are sitting outside Rocky Flats now  
11 waiting for shipment direct disposal at Nevada.  
12 There's nothing that changed; it was just the  
13 methodology and the procedures that they do.  
14

15 A lot of these other things are -- the cuts  
16 are in what I could call -- what I would call, you  
17 know, just the contractors have a bloated GNA and  
18 overhead. What we're seeing is probably an 8 to 10  
19 percent reduction on level of effort activities,  
20 administrative and overhead support at Kaiser Hill  
21 alone. It's -- it's much greater than that, I think,  
22 at some of these other sites.  
23

24 So we can literally go in but we have to be  
25 proactive a little bit. We have to go in. We open up  
26 meetings. When we have a pre-bidders' conference, we  
27 invite the -- usually the regulators in and the Mound  
28 MMIC. The Industrial Reuse Organization came in.  
29

30 So we're trying to not make it completely  
31 closed, but we need to be fairly proactive and fairly  
32 aggressive when we go out to these sites, particularly  
33 if we're going in a significant culture change and the  
34 difference of opinion to make sure both the regulators  
35 are on board, to let them know that we're not really  
36 changing anything, we're not trying to pull a switch,  
37 but also the stakeholders know that we believe we're  
38 going to get things done quicker and cheaper but the  
39 end state, end product is still going to be the same  
40 for the communities that are left.  
41

42 MR. AJELLO: One more question.

43 DR. FERRIGNO: Probably -- I don't know if  
44 there's an answer to this. You know, you just made me  
45 start thinking. As a contractor, I would generally  
46 have my labor productivities and know what areas and  
47 regions. Of course, that was the private sector where  
48 the competition was always in that mode. And yes, we  
49 have contractors who are in the private sector but are  
50 also Federal projects.  
51

1           Is there any thought of publishing or having  
2 a database of productivities for the very things you're  
3 dealing with in various sites so when you get -- what  
4 I'm thinking about is -- is the goal that DOE has is to  
5 increase a new gene pool, or at least get more  
6 competent contractors so competition drives costs down  
7 and improves schedule.  
8

9           Is there any thought of a reading room of  
10 productivity of labor factors and things like that for  
11 the various activities or work?  
12

13           MR. SHEPPARD: That's probably a good idea.  
14 We haven't really thought about it from that  
15 perspective, making it available.  
16

17           What -- what we've been working at, and I  
18 think what one of the critical keys for Rocky Flats is,  
19 that it doesn't close too quickly and we lose the  
20 valuable lessons learned and the history of how we  
21 started with -- particularly with the CPIF contract  
22 period.  
23

24           I have a cost team that I put together for  
25 Idaho that I sent to Rocky literally for a week to go  
26 through the history of what we thought the estimates  
27 were before, what we're experiencing now, literally  
28 looking at targeted areas of D & D, ER, particularly  
29 with the 903 pad, you know, what were characterization  
30 costs estimated at, what are actuals, what are D & D,  
31 how quickly did it take us to get out another 1300  
32 glove boxes there.  
33

34           So we're kind of doing that from a DOE  
35 perspective. Now, Kaiser Hill, you know, they'll toot  
36 their horn in some cases, but they're not going to  
37 reveal everything because then that takes away their  
38 competitive edge. But you're right; somehow, I think  
39 maybe either through expectations or -- or how we  
40 issued the RFP, you know, we're kind of setting that  
41 bar. But I'll have to consider, you know, how we can  
42 get some of those things out, whether it's through --  
43 we do have a lessons learned web page, and that may be  
44 one thing we want to put on there, that, you know, we  
45 went from six months for one glove box in Building 707  
46 in 19 -- 2000 to, you know, we're getting 16 a week now  
47 in -- in November of '03.  
48

49           Some of those things that we have to try and  
50 continually benchmark to let them know, you know, not  
51 only what we accomplished but what we're going to be  
expecting in other areas.

1  
2 MR. AJELLO: Okay. Frank thanks very much.  
3 It was a very comprehensive briefing.  
4

5 MR. SHEPPARD: Thank you.  
6

7 MR. AJELLO: And we appreciate all the  
8 efforts that -- that you've done here to brief us.  
9

10 I'd like to suggest that inasmuch as we're  
11 about one hour behind as we stand now that we do one of  
12 the board briefings, the first one. And the first one  
13 up is Contracts. That'll be myself and Dave Swindle.  
14

15 And the reason I would suggest we do that as  
16 opposed to take a lunch break now is that, of course,  
17 it's the related topic from the prior briefing.  
18

19 And for those of you who are trying to plan  
20 the rest of the day or what you might attend, I would  
21 suggest we, after this particular one, take the lunch  
22 break and then come back to do Metrics and End State,  
23 and then go right back down the -- down the schedule  
24 again -- is the Board okay with that? -- so that we can  
25 make progress in that regard.  
26

27 Okay. The -- as I said, the first  
28 presentation up, and I guess turnaround is fair play.  
29 You now get a chance to ask us some questions on the  
30 briefing that we're about to deliver.  
31

32 So I'll kick it off today, and if we can get  
33 the lights we might be able to see that better.  
34

35 Discussion of EMAB Project Team Report Findings  
36

37 **Contracts Team**

38 MR. AJELLO: Myself and Dave Swindle will  
39 talk about EM contracting practices today and, as I  
40 said, a good segue into -- into the topic -- from the  
41 topic that we just talked about.  
42

43 Could I have the next slide, please?  
44

45 We commissioned this effort -- that's on  
46 slide -- so you want to press -- there you go.  
47

48 We commissioned this effort after we heard  
49 from the assistant secretary, Jessie Roberson, about  
50 some of the key questions and request scenarios of  
51 investigation that she would like us to review.

1  
2 I'm just going to go down these right now.  
3 And I think you'll find that from this morning's  
4 discussion, Paul Golan's and then Frank's recently,  
5 we're touching on a lot of the same areas.  
6

7 It's -- I'll say up front, it's kind of  
8 striking to me that -- that this work was done some  
9 months ago and we're finding pretty good convergence  
10 around some of the key points of investigations.  
11

12 So the first question was, "Does the program  
13 provide sufficient incentives to its contractors to  
14 realize these desired outcomes? And if not, what  
15 should the incentives be?" I mean, the felt need here  
16 was to make sure that as we looked at these kinds of  
17 practices we were reviewing the perspective probably  
18 from the contractors to see whether or not they were  
19 using the best and the brightest and the right  
20 approaches.

21 The next one is, "Do the contractors have  
22 adequate freedom under the contracts to meet or exceed  
23 goals?" We've heard a lot about that today as well,  
24 and so we'll address that point.  
25

26 The third one was, "Does the EM Program  
27 attract the best available talent given its contracting  
28 approach?" So far you've -- we've heard a lot about  
29 fees and -- and contract formats, and this has a lot to  
30 do with the -- this particular question.  
31

32 Next slide.  
33

34 "Is there value in using benchmarking from  
35 the private sector to improve the way the program  
36 interacts, negotiates, and/or documents with its  
37 contractors?" Here the implication or notion of the  
38 question is, what are other entities, whether they be  
39 public or private, in the government sector at all  
40 levels and in the private sector, doing with their own  
41 needs of a similar complexity. Even though this  
42 program is quite unique in terms of size, scientific  
43 complexity, project management challenges, what have  
44 you, we're looking for those analogues out there that  
45 could be used to promote some suggestions in the  
46 program.  
47

48 And then, the next one was, "Let's give a  
49 sanity check for how the industry views the projects  
50 and suggest ways for it to improve as it relates to the  
51 contracting community." This is a particularly

1 difficult area, I would say, because you're trying to  
2 get feedback all the time from a community that relies  
3 upon the program to make its livelihood.  
4

5 So the built-in conflict I would say here is  
6 that you need to hear specific issues but in a way that  
7 -- that doesn't pose a conflict. And it's awfully hard  
8 to do that because the program is so large, touches so  
9 many communities and contractors. Very, very hard to  
10 get that feedback in a sort of unbiased, unfettered  
11 fashion. So that's -- that's a particularly difficult  
12 one.  
13

14 And then, moving on, the other questions,  
15 "Determine the key attributes of the Source Evaluation  
16 Board." A lot of the thunder around this one has  
17 probably been stolen by the fact that you guys have  
18 refocused around this one as we were looking at it to  
19  
20 create a professional cadre and a focused organization  
21 to get this done.  
22

23 So I daresay a lot of the footprint that  
24 you'll read about in here has already been starting to  
25 get filled around the work that you're doing and some  
26 of the comments that Jessie made this morning around  
27 trying to inculcate, you know, a professionalism around  
28 this. She didn't say career track or -- or specialty  
29 or whatever, but those are the words I was thinking of  
30 as -- as I reviewed her comments.  
31

32 And then, "What of the Source Evaluation  
33 Board activities and decisions drive bid and proposal  
34 expense?" We heard already this morning about the  
35 impact of timing, both positive and negative. Forty-  
36 five days, a year or two, on both ends -- both ends of  
37 that spectrum.  
38

39 And, "In what ways could you improve the  
40 process?"  
41

42 So our approach to this was to form a sub-  
43 team or committee, as Tom said this morning, and we've  
44 done the same thing for each -- each of the areas of  
45 investigation that we reviewed. And here, the four  
46 members of the Board that are listed here: myself,  
47 Dennis Ferrigno, John Quarles who was not able to be  
48 here today, and Dave Swindle, reviewed these matters.  
49 Most of us have had -- in fact, all of us have had  
50 major contracting experience, and so we hope we're  
51 giving some value from a very practical standpoint in

1 -- in some of the findings that we've -- we've come  
2 up with.

3  
4 So let's take the next slide, and I want to  
5 turn it over to Dave, who -- who will take us through  
6 the -- the balance of the -- of the presentation and --  
7 and the findings.

8  
9 MR. SWINDLE: I've been in DOE too long  
10 because I have to stand up.

11  
12 (Laughter)

13  
14 (Pause)

15  
16 MR. SWINDLE: The first area, and this is  
17 somewhat of a general area, and I will get to some  
18 specifics, is the whole issue of incentives is what  
19 draws the private sector to work on EM projects. And  
20 to contrast this, when you've got a private industry  
21 entity that's looking at something in the commercial  
22 sector, it sometimes can draw 25, 30 percent type fees.  
23 And that's not uncommon whether you can -- you get  
24 measured risk.

25  
26 It's very difficult for a firm to sit there  
27 that's going to get 2 to 3 percent to put their 18 on a  
28 job. That's just a practical reality.

29  
30 And so with that as a backdrop, this is sort  
31 of where we headed.

32  
33 Next, please.

34  
35 One of the first areas, and again, it's  
36 something the Board is -- is going to undertake at a  
37 working level in more detail, is it is our belief that  
38 EM should take a much more in-depth look at the  
39 contracting and fee incentive models that are used  
40 external to the government as well as in other federal  
41 agencies. And particularly, not just those that are in  
42 these global remediation projects but in the overall  
43 area of program management because at the end of the  
44 day what actually is occurring for EM, it's major  
45 program management. And it's not just limited to the  
46 environmental management area.

47  
48 For example, right now there's typically  
49 viewed as a FAR cap of 15 percent. And yet, in some  
50 fixed-fee jobs, again if the right incentives are  
51 there, you know, embedded, although it's never exposed

1 to the government per se because a fixed fee is  
2 basically set there, it's not uncommon to get 20, 25  
3 percent. But there's also a down side in terms of some  
4 of the other risk factors. And so that's important to  
5 look at.

6  
7 The other issue that was mentioned earlier by  
8 Jim, and that's the question of working capital. We  
9 would make the distinction, for example, that the  
10 business decision processes that a large business makes  
11 and how they go about it, how they measure risk, very  
12 often is much different than a small business. Some of  
13 it may be driven by levels of sophistication within the  
14 entity. Others may be trying to balance the  
15 competition between where can I put my risk working  
16 capital to best use to get my highest return.

17  
18 In some of these, there are a number of  
19 innovations. We on the private sector -- I know in my  
20 company, we occasionally work with the PMI, the Project  
21 Management Institute, because they've been out  
22 surveying other aspects of the industry, and not just  
23 from the federal side, looking at some of the best  
24 practices.

25  
26 The second thing this question, and Jim  
27 mentioned it earlier, this whole issue of implementing  
28 benchmarking. Large firms typically take benchmarking  
29 as a way to incentivize their leadership and  
30 management. You know, it may be earned value  
31 management systems and so forth, but there's --  
32 typically, most firms put in a series of standards.  
33 And we see that at least bringing it into EM today, but  
34 what's happening is there's no consistency in terms of  
35 standards and requirements coming from the top.

36  
37 One of the -- let's see. Yeah. Claims. One  
38 other area that I've observed in some recent years, and  
39 it's not just limited to DOE but it's also in the  
40 private sector, there's a lot of claims going back and  
41 forth from a dispute resolution.

42  
43 And if you look at those under a microscope,  
44 for example, you can find there's underlying causes why  
45 claims occur, whether it's for, you know, either  
46 misstated objectives or unclear contracting terms. But  
47 all of those are drawable or extractable from a series  
48 of lessons learned that can translate into more  
49 effective contracting down the road.

50  
51 Just go ahead and -- yeah. Okay.

1  
2 This whole question of what limits new  
3 contracting firms from entering the EM clean-up market.  
4 The bidding process, the liability, and the like.  
5 Well, part of this fundamentally is how do companies as  
6 a whole make the decision to bid. Part of it we just  
7 hit on in those sort of four phases. If its 45 days  
8 and you've got to commit your top people for as much as  
9 a year, it's not going to happen. People will walk  
10 away, particularly when you're doing tradeoffs and  
11 comparisons.

12  
13 One of the areas that I know we on the  
14 contracting side through the Energy Facilities  
15 Contracting Group, EFCOG, there's been quite a bit of  
16 look at that overall. Of course, it's not just EM,  
17 it's -- it's the NNSA, it's et cetera. Or other parts  
18 of the Department of Energy.

19  
20 Protest. You know, there's -- right now, if  
21 you look across the DOE, DOE has a somewhat  
22 unproportionally large set of protests, and it's not  
23 the one or two that's in EM. It looks across the  
24 board. And it's whether there were expectations that  
25 were different going into the process or like he  
26 indicated in the cost area, that there may have been  
27 some areas that were unbelievable, or games being  
28 played, whatever the perception is.

29  
30 Of course, part of the issue in getting  
31 people to join in the contracting is to recognize at  
32 least from a Washington perspective, perception is  
33 reality. And if you perceive there's some inequities,  
34 then people will perceive it's an unfair and unlevelled  
35 playing field, and so that's important.

36  
37 The next, please. Go ahead and hit all  
38 three, please.

39  
40 Okay. One of the things that has been a, I  
41 guess, a criticism or at least an acknowledged concern  
42 of DOE in the regulatory arena as well as in the public  
43 side is, what is DOE's real role? Clearly, a major  
44 step forward has been to manage the contract as opposed  
45 to manage the contractor.

46  
47 There's still a lot more gain to be done.  
48 For example, if you look at most major DOD acquisitions  
49 today, take the Joint Strike Fighter. The program  
50 office of the Joint Strike Fighter has five people  
51 managing a \$100 billion program, okay. Now, obviously

1 there's a lot more underneath those organizations  
2 there, but what typically happens in terms of sort of  
3 self-oversight, quality control, a lot of the things we  
4 see DOE doing in the field today, a professional  
5 organization -- the large aerospace firms, for example.  
6

7 When they're hired, they're expected from  
8 their corporate level to provide that corporate  
9 governance. And it's paid for during the process and  
10 the overhead. A distinction of either you do it on the  
11 inherently governmental side or you're hiring an expert  
12 for their expertise and through the corporate  
13 governance you accomplish that.  
14

15  
16 So that's one way, again, of transitioning  
17 some of the, where should the mandates or where should  
18 the supervisory come into place. So more  
19 accountability from the corporation to provide  
20 oversight is an area.  
21

22 And I think it's been stated earlier that  
23 much more focus is what you're saying and focusing upon  
24 what's to be done, not how it's to be done. And that's  
25 very important in a risk standpoint.  
26

27 Most companies look at the liability  
28 distinction, that if they're directed of what to do,  
29 okay, and something goes wrong, there's actually, in a  
30 private sector setting, there's more opportunity for  
31 liability to pass to who gives the instructions. But  
32 if it's contained, it's a much more manageable process.  
33

34 This question of different contract vehicles.  
35 Clearly, there -- you brought in the IDIQ. That's a  
36 major step forward. There are different models out of  
37 the system. DOD pioneered some very unique IDIQ-like  
38 contracts through the Cooperative Threat Reduction  
39 Integration Program that were five years. Basically,  
40 in order to get the best and brightest of organizations  
41 to commit, in essence it put out essentially all major  
42 procurement in the cooperative threat reduction for  
43 five years. It's going to be run through these  
44 vehicles.  
45

46 But they compete once they're awarded. So  
47 they became a very different type of tool and model.  
48

49 Basic ordering agreements. The GSA  
50 schedules. All of these sort of things are in there,  
51 as well as looking at factors of who provides some of

1 the working capital.  
2  
3 One of the distinctions that an M & O  
4 contractor has had always that gave them a competitive  
5 advantage for self-performing is they were always  
6 spending the government's money, never putting at risk  
7 any of their money.  
8  
9 And again, weighing those factors and  
10 tradeoffs sort of goes back to one of Jim's points from  
11 his banking experiences. It helps put in perspective  
12 some of these considerations.  
13  
14  
15 And particularly in this area, when you look  
16 at working capital, it challenges small businesses much  
17 greater than it does larger businesses. And that  
18 becomes one of the draws and distinctions. Okay.  
19  
20 Bonding requirements. This is an area that's  
21 somewhat uniquely -- say, as the EM Program has moved  
22 to the study phase to the construction phase and the  
23 true remediation where there is performance-based  
24 issues, bid bonds, and the like, you know, the --  
25 again, historically, the government has not understood  
26 the cost of bid bonds.  
27  
28 Since September the 11th, the cost of bonding  
29 has gone up as much as 8 to 15 percent of the cost of  
30 the bid, okay. And yet if you look at what the FAR  
31 requires, the FAR requires only certain elements where  
32 the government is at risk to be bonded. It's not 100  
33 percent; yet typical RFPs require 100 percent bonding.  
34  
35 And most jobs that we see, again on the DOD  
36 side, are not unusual in the 20 percent. It's those  
37 areas where something could go wrong and you couldn't  
38 recover. And that's savings to the government because  
39 anybody that bids these jobs has to pass that cost on  
40 to the government. And so bonding requirements is one  
41 of the areas that could have substantial savings for  
42 both the government and -- and the contractor.  
43  
44 Contract incentive programs. One of the  
45 elements -- and this is I want to say universal because  
46 it's been tried in innovations but not as a  
47 requirement. Most current contract incentive programs,  
48 cost plus incentive fee, even cost plus award fee, are  
49 pretty much limited at the prime contractor level.  
50 There are opportunities to flow some of those  
51 requirements down, particularly as you get into more of

1 the partnering with small businesses to large  
2 businesses. And sometimes that's dealt with off the  
3 side.

4  
5 But if there's some guidelines established,  
6 it should help ensure a retention of the best  
7 performers, particularly since one of the objectives  
8 the Department is pursuing here is how to mentor and  
9 bring forward some of the smaller businesses as opposed  
10 to, you know, small business basically I want to say  
11 being raped and pillaged but being overshadowed by a  
12 large business when the real ability is the small  
13 business is accountable.

14 Large firms to subcontracts to small firms.  
15 Clearly, DOE has made it very attractive for large  
16 firms to team with small firms, but looking from  
17 another perspective, I believe it's very important  
18 since small businesses right now are a mandatory  
19 requirement generally by either elements of the RFP to  
20 move from where you have to have small businesses to  
21 where a large business wants to have small businesses.

22 And it's beyond the technical capabilities.

23  
24 And so there are some mentor-protége programs  
25 that historically DOE has gotten away from over the  
26 last decade. DOD is actually moving back in that and  
27 incentivizing the contractor. And one of the most  
28 effective ones just happens to be in the Native  
29 American areas where if you use Native Americans, the  
30 incentive that's there is for every dollar that you put  
31 in a native, small -- small Native American contract, 5  
32 percent rebate basically goes back to the large  
33 business for utilizing and developing those assets.

34  
35 Okay. One of the areas that we looked at --  
36 and in fact, you've already had some as you've talked  
37 about from the various teams that have been set up.

38  
39 What -- in the whole SEB process, it looks  
40 like you've made tremendous progress on that, but the  
41 lessons learned -- and we were talking earlier the sort  
42 of the four phases. But clearly, there's more to be  
43 there and the Board is prepared to help work  
44 collaboratively to make that happen.

45  
46 Part of this is all aimed at consistency in  
47 contracting processes. When Jessie mentioned this  
48 morning -- I'm not sure you were here, Frank -- that  
49 part of the human capital issue is to do this mobility  
50 aspect. That is one of the most effective ways to  
51 encourage lessons learned, but there are a lot more.

1 We clearly want to turn these into actionable areas  
2 that add value and move this program forward.

3  
4 So I'll end on that note.

5  
6 MR. AJELLO: Thanks, Dave.

7  
8 I'd like to encourage discussion and  
9 questions at this point on this report. We've -- we've  
10 heard a fair amount on the topic of contracting. I'm  
11 sure there's some discussions and questions.

12  
13 MR. WINSTON: I have a quick one. And this  
14 is not an area of my expertise, so I'm certainly trying  
15 to learn and want to be helpful.

16  
17 There seems to be a -- a conclusion here that  
18 you're not attracting the best and the brightest. Did  
19 you just look at whether there are incentives to  
20 attract the best and brightest, or is there any kind of  
21 empirical evidence that we're not attracting the best  
22 and the brightest to the DOE projects?

23  
24 MR. SWINDLE: I think as we looked at this,  
25 this was more I want to say intuitively as opposed to,  
26 say, you know, by any individual by name or any skill  
27 set. It comes down to how businesses make decisions.  
28 I mean, if you've got two competing projects for the  
29 same value and you can make 35 percent off of it versus  
30 2 to 3 percent in EM, then there's hardly any business  
31 that will choose the 2 to 3 percent, okay.

32  
33 I mean, it just comes down to some of those  
34 simple rules of economics, okay, particularly when  
35 capital is tight -- the bid proposal funds are tight,  
36 and the like. That's -- that's a very global generic  
37 aspect.

38  
39 There's no implication by any means to say  
40 that what is being done as a rule is not getting the  
41 best and brightest. But we have seen, at least in my  
42 career, and I can even cite some by name but not here,  
43 that over the years where people have been assigned  
44 from some of the major M & O contractors and then, less  
45 than six months on the job, you know, they're pulled  
46 out. Part of this is historically a problem of what we  
47 call the bait and switch model as to where you put your  
48 best proposal, your best person forward in the bid, and  
49 they get evaluated, but then you pull them out for the  
50 execution.

51

1                   And that -- that -- there are exact -- I  
2 mean, there are cases, and I see Frank shaking his  
3 head. Probably we've all had experiences like this.  
4

5                   MR. SHEPPARD: Yeah, just one comment. Not  
6 only from a fee perspective. We're trying to make our  
7 fees more like industry-type standards. Again, we're  
8 trying to battle some of the constraints that we have  
9 here now, both internally and with FAR.

10  
11  
12                   But also, as we put the evaluations out, in  
13 the proposals we're trying to make sure that we be very  
14 up front in the key personnel section on exactly what  
15 we're looking for, how much we're looking for, and then  
16 how much that's going to be weighted in the evaluation  
17 process. So hopefully, through those two things, both  
18 from the dollar perspective but also in a -- from a  
19 proposal evaluation standpoint along with some  
20 restrictions on the old bait and switch, penalties if  
21 they leave too early. But hopefully, we'll start to  
22 see better and better management teams come in.  
23

24                   MR. AJELLO: Tom, I -- I can't say this is  
25 scientific, and after you listen to my answer to that  
26 question you will certainly say it's not scientific.  
27

28                   But I -- I tend to -- to ask some of the  
29 contractors in the program that very question. And the  
30 answer is -- is generally, no. I mean, I think that  
31 it's a good level of support, but I don't think it  
32 rises to the standard of the best and the brightest for  
33 some of the reasons that you mentioned.  
34

35                   You know, work scope here was not to survey  
36 contractors, although I know Frank has a very specific  
37 survey in mind. One of the things that we'll talk  
38 about a little bit later about making these things  
39 actionable is probably to talk to the community more  
40 often, survey what they're doing, giving them a chance  
41 to give us an anonymous answer from a very good and  
42 derived sample of the contractors asked this question  
43 because this is one of those very, very sensitive  
44 issues that on a face-to-face basis it's very, very  
45 hard to get an answer.  
46

47                   So I think that's one of the -- to me,  
48 looking at this work, one of the take-aways was to turn  
49 what I think was a very definite set of feedbacks to  
50 hard data on the topic.  
51

1 MR. WINSTON: And my point was not to say  
2 that we don't want to maximize -- the Department does  
3 not want to maximize incentives that is linked to, you  
4 know, either enhance or continue to attract the best  
5 and the brightest.

6  
7 Looking at the -- I've seen the results of  
8 the Mound contracting, and we've been real pleased with  
9 the team. Now, you know, it's -

10 MR. SWINDLE: But you changed the incentives.

11  
12 MR. WINSTON: Well, yeah, that's right. And  
13 -- and of course, it's -- it's -- it's early. Maybe we  
14 will be -- have been baited and switched.

15  
16 (Laughter)

17  
18 MR. WINSTON: I don't know, but hopefully  
19 not. But I think we've been pleased with what we've  
20 seen.

21 MR. AJELLO: Dennis.

22  
23 DR. FERRIGNO: I'd like to just add  
24 something. I don't think there's any straight answer  
25 to this, okay. The best and brightest; do you have the  
26 best and brightest right now; are there others out  
27 there.

28  
29 There's obviously -- when you're going to  
30 deactivate a glove box that's plutonium-contaminated, I  
31 mean, there's a core competency of just a few people or  
32 a few corporate structures that have had that  
33 experience, and how often are you going to do that. Do  
34 you just get it out of the way and, you know, get the  
35 rest of the job done.

36  
37 But then again, unbundling. As you're doing  
38 it in the IDIQs -- I applaud that, by the way -- in  
39 unbundling the environmental restoration from the  
40 deactivation of nuclear from the D & D of non-  
41 contaminated, I think you're going to see -- my -- my  
42 opinion is, you're going to see some very interesting  
43 results when you do that. Maybe even in the response  
44 of the RFPs. Maybe too many to be responding; who  
45 knows.

46  
47 I've got a story, though, that really has  
48 great application to this, and I was just thinking  
49 about the answer to this. When I was at Gilbert  
50 Associates, we designed nuclear power plants. And we  
51

1 had about 12 or 13 that we designed.  
2  
3 One of the times we were awarded the project,  
4 we had the core team of all these nuclear designers.  
5 And we're talking about thousands of people, by the  
6 way. And what happened was, is we received another  
7 power station design, and it was in Yugoslavia. And we  
8 didn't have the A Team or the core team, and we took -  
9  
10 my God, we took a team that was designing coal-fired  
11 power plants, but very capable people.

12  
13 And that team was motivated. It was given  
14 the -- you know, all of the core competency. And  
15 typically, what was happening is, in that period of  
16 time it was taking five years to design a nuclear power  
17 station and get it into construction. And that team  
18 did it in two years. They didn't know any better,  
19 okay?

20  
21 (Laughter)

22  
23 DR. FERRIGNO: Yeah, okay. And that plant is  
24 operating very well still today, okay. It's had no  
25 safety incidences that I'm aware of, okay. And it was  
26 a marked improvement in how they used unique approaches  
27 to go through this.

28  
29 So, yes, there's core competency in areas  
30 that we're doing, and you've just got to use the people  
31 that are there. But there is some unbundling that  
32 maybe, just maybe, we can start taking advantage of  
33 other firms who are in synergistic businesses that will  
34 be encouraged -- exactly what David was talking about  
35 -- would be encouraged to come into this business and  
36 maybe build the gene pool.

37  
38 I don't know if that's worth anything, but.

39  
40 MR. SHEPPARD: Now, if I could just comment  
41 on that, I think the two things that we're trying to  
42 get across to these other sites -- and I encouraged  
43 them over the last couple weeks they've been at Rocky  
44 -- is not only the right contract in place but just  
45 the attitude. You know, same type of thing. If you  
46 looked at Rocky seven years ago when I first started,  
47 you walked through a cafeteria and people were just  
48 sitting around there playing cards. And now it's M &  
49 O, CPIF, and we'll get paid no matter what. And you  
50 know, their performance-based incentives didn't come  
51 around till '97, but they were year-by-year and mainly

1 for documentation or reports.  
2  
3 When we go to other sites, and I won't  
4 mention any by name, we could tour for two or three  
5 days and see no more than 12 people actually doing  
6 work. So it's very frustrating to see that.  
7  
8  
9 When we went out to Rocky even on Wednesday,  
10 as I walked through the facility, you literally had to  
11 step back and stand along the wall because there was  
12 activity going on all over the place. And you could  
13 see more people working in a small room at Rocky than  
14 at some of these other sites where we're spending \$1  
15 billion to do some work at.  
16  
17 So again, it's, you know, partly -- you know,  
18 hey, we -- it took us six months or a year to do this  
19 activity before. You pay somebody with the right --  
20 with the right basic experience in there to go do the  
21 work, and they're going to go in and do it. So  
22 hopefully we're trying to get more and more of that out  
23 throughout the other sites.  
24  
25 MR. AJELLO: One of the -- pardon me. One of  
26 the things that became apparent to me as we looked at  
27 some of these contracting practices is that -- and I  
28 think if you read the -- the detailed report itself, it  
29 talks about incremental change that's happening in the  
30 Department with respect to these contracting practices.  
31  
32 And while a lot's been accomplished, one  
33 could look at the last three years of history and say,  
34 it is just that, incremental. And one wonders whether  
35 or not some of these things are really bold enough with  
36 respect to fees and with respect to bonding and some  
37 other initiatives.  
38  
39 And so while when you step back you see a  
40 number of positive changes happening, one is left with  
41 the question, why not try something more bold on one or  
42 two of these procurements and, without using a  
43 technical term, see how it goes and test the edge of  
44 the envelope in terms of what people are willing to do  
45 as opposed to always doing the incremental approach.  
46  
47 Moving fees from eight to 10 may seem like a  
48 big deal, but I don't think it really is. I mean, one  
49 could take that position. Moving fees from, you know,  
50 eight to 16 may be a much bigger deal, and it may or  
51 may not work. The supposition of this team is that it

1 would work dramatically, but as opposed to an  
2 incremental approach.

3  
4 Would you agree that basically some of the  
5 things that we're seeing here are incremental or -- or  
6 would you -- would you disagree that, you know, some  
7 more bolder practices are underway?

8 MR. SHEPPARD: From my position, I'd -- I'd  
9 like to try even bolder things. I could tell you,  
10 though, from an internal -- specifically within this  
11 building, the 8 to 10 percent seem like a big deal to a  
12 lot of people. And we struggled with it. We struggled  
13 going up to 6 to 8 percent. So each time we raise the  
14 bar, it keeps coming back to us.

15  
16 I think part of the challenge that EM has to  
17 address, though, is as we get into some of the larger  
18 contract and the larger percentages and then,  
19 therefore, larger dollars that some of these firms are,  
20 how good are we on our cost estimates and validating  
21 whether it's the existing baselines or independent cost  
22 estimates.

23  
24 How do we keep measuring, you know, where  
25 we're making progress and benchmarking the activities  
26 of Rocky, say, and trying to extrapolate that out to a  
27 future procurement. What do we expect, you know, glove  
28 box removal to take two years from now. You can only  
29 hit -- hit a wall of so much productivity, but  
30 certainly, we're restructuring, you know, companies and  
31 attitudes and processes.

32  
33 But you know, we get questioned a lot  
34 legitimately, you know, how well do we know what our  
35 cost estimates are. Because we don't want to put the  
36 large percentage out there on large dollar contracts  
37 only to find out that, hey, they're maxing out easy.  
38 So we're kind of balancing the percentage ranges with,  
39 you know, how well, do we know what our cost estimates  
40 are, particularly for longer term contracts, eight to  
41 10 years out.

42  
43 We're looking at Idaho out, you know, to  
44 2012. You know, there's a lot of uncertainty in those  
45 out-years. We have to make sure that we have a grasp  
46 on cost estimates, clarity of work scope that far out,  
47 the uncertainties with Yucca not opening or opening and  
48 how we structure the contracts, and then trying to put  
49 that right fee percentage out there.

50  
51 But you're right. I mean, and Jessie has --

1 I mean, we've tasked each time, you know, go higher, go  
2 higher, go higher. So we're trying to do it. Maybe  
3 we'll try some bigger steps here.  
4

5 MR. AJELLO: Any other thoughts or questions?  
6 For anyone at the table, obviously. Lorraine.

7 MS. ANDERSON: I come from a background of  
8 small business, but that small business was max 15  
9 employees. So you're talking, you know, up to 500.  
10

11 But I -- I think the idea here is you -- you  
12 either pay me now or pay me later. And it seems to me  
13 that if there is a big jump between the fees now and  
14 what they really should be in order to attract the A  
15 Team, I would think you'd want to attract the A Team.  
16 I think that A Team would save you money in the long  
17 run. That's just my thought.  
18

19 MR. SHEPPARD: I definitely agree. And from  
20 a Department standpoint, what we're trying to argue is  
21 we're not increasing the funding. So if we have \$100  
22 million of funding, whether they get 2 percent and they  
23 spent \$98 million on activities and got 2 percent fee,  
24 if they can do it for \$90 million and get 10 percent  
25 fee, it's still the same dollar value that's going out.  
26

27 But we'll learn in the long run -- like you  
28 said, pay me now or pay me later -- is we're trying to  
29 raise the bar each time. So I think the investment of  
30 making that step, getting the experience, spreading it  
31 not only to one contractor but to that capability of a  
32 number of different contractors. Jessie wants non-  
33 traditional DOE contracts -- contractors to come in.  
34 So we're trying to do that.  
35

36 But I agree that that bigger step -- and I  
37 know Mr. Card a couple times has put very high  
38 percentages out there when he makes speeches. You  
39 know, we -- we need to get those approved, though,  
40 within the building to make sure that everybody is  
41 comfortable with that.  
42

43 But again, it goes back to, what's the  
44 complexity of the job; how comfortable are we on the  
45 cost estimate; what kind of risk are we putting out  
46 there; how much risk is the contractor willing to  
47 assume; and if it's worth it, we should go put it out  
48 there.  
49

50 MR. AJELLO: Don't forget the other  
51 dimension, which is time. Again, I'll harp on that.

1 If you take that same \$98 million pot and made it, as  
2 compared to 94 and four, 90 and eight, exactly your  
3 example, and you put that third dimension, which is  
4 "and to get to the eight you've also got to do it six  
5 months sooner," or whatever, I tell you that is -- that  
6 is a huge value, and a value, I submit once again, that  
7 maybe you're not taking credit for sufficiently.  
8

9 And this is meant to be a constructive,  
10 positive comment in the sense that getting something  
11 done faster will mean risk reduction because you're not  
12 in the project six months more. In six months,  
13 anything could happen on a risk basis, on a safety  
14 basis. It's going to cost the Department and the  
15 government more to fund that from a working capital  
16 standpoint, and you could take your good resources and  
17 redeploy them six months sooner.  
18

19 So the dimension of time, when added to  
20 everything you said, is I think often understated  
21 perhaps in the program and -- and interestingly enough,  
22 for a program that is all about accelerated clean-up  
23 and -- and site closure.  
24

25 It's certainly the way we act when we do our  
26 projects. I mean, time is a huge dimension. I can't  
27 overstate that enough and, you know, based on my  
28 experience. And I don't know if the others have a  
29 view.  
30

31 DR. FERRIGNO: Let me just chip in on that,  
32 and that is, obviously the U.S. Treasury, they're not  
33 going to use cost of capital, use a capital employed  
34 number. I mean that's -  
35

36 MR. AJELLO: They'll just raise taxes.  
37

38 DR. FERRIGNO: Whatever.  
39

40 MR. AJELLO: And sell bonds.  
41

42 DR. FERRIGNO: Okay. But maybe, just maybe,  
43 a phantom analysis -  
44

45 MR. AJELLO: Yes.  
46

47 DR. FERRIGNO: -- of if you were in the  
48 private sector, what would be the cost of capital. And  
49 overlay that to the Rocky Flats, maybe, life cycle.  
50 And what was that cost of capital issue versus when you  
51 started versus now. I think you'd be amazed at what

1 that is.  
2  
3 I mean, most companies capital employ, even  
4 today when you have -- your bank accounts are at 2 and  
5 3 percent, their -- their hurdle rates are more like 8  
6 or 9 percent in the private sector even today. And if  
7 the interest rates go up, they're going to be higher.  
8  
9 You start applying that interest rate, okay,  
10 and look at the burden of the legacy, and you start  
11 cutting back years or two years at a time.  
12 Intuitively, we know the answer. But it would be very  
13 interesting to see what was really saved when we look  
14 at that phantom cost of capital.

15  
16 MR. AJELLO: That concept is tucked in the  
17 report that we're delivering here. And it is a phantom  
18 report because, to my knowledge, the accounting that's  
19 done in the Department pursuant to budgets that are  
20 appropriated do not assign that cost of capital. So  
21 you don't see it weighing on you, but in reality the  
22 taxpayers again are paying through their taxes and  
23 through the issuance of debt that is coming through the  
24 central treasury to fund the things that this  
25 Department and all elements of the government are doing  
26 every day.

27  
28 So I think it's a behavior and an attitude  
29 that virtually every program ought to -- ought to have  
30 engendered in it. Certainly, a program that spends,  
31 you know, \$6 or \$7 billion a year on contracting  
32 services. I think it's a -- it's a real benefit that  
33 you're probably understating in terms of the value that  
34 you create in the program. That's my suggestion.  
35 Jennifer.

36  
37 MS. SALISBURY: I guess this isn't really so  
38 much for the team, but maybe it's more for Frank to  
39 talk about the flip side of the procurement process and  
40 doing it properly and doing it right the first time.

41  
42 I just noticed in our notes, and I have seen  
43 the clips from the DOE, that there have been quite a  
44 few protests of EM contracts in the past six months to  
45 year. And I'm just curious what EM is doing about  
46 that, the reason for the protests.

47  
48 I mean, you may not be able to talk about it  
49 from a legal point of view, but that -- that does cost  
50 you all a lot of money to have to go -- you know, to  
51 deal with those. And anyway, just you might have some

1 comments on that.

2

3 MR. SHEPPARD: Yeah. Like I said, I think I  
4 said earlier I saw that question. I talked to Norm  
5 Sandlin this morning, who told me that, you know -- I  
6 said, there was -- may be a question posed about the  
7 four. I'm not aware of the four. They may be DOE, but  
8 I'm not sure they're EM. If they are, they may be at  
9 smaller sites, but I'd be happy to look into that.

10

11 The only one, like I said, I know is the  
12 River Corridor contract, and that was strictly on --  
13 mostly on the cost evaluation process.

14

15 And I think part of -- now I have to defend  
16 the SEB, but as we get all these parallel SEBs, one of  
17 the things that we're -- we're struggling in developing  
18 now as we have these is you're putting people in the  
19 SEBs who haven't been on SEBs before. It's nice to  
20 have that cadre of people, but we're literally starting  
21 from scratch, particularly with the headquarters folks  
22 and the way that Jessie and Paul want to attack these  
23 things with some independent people.

24

25 You know, you have seven SEBs going on, you  
26 need seven SEB chairs, you need seven SSOs, and a lot  
27 of these people -- and I had one in the hallway before  
28 this meeting come up. Oh, I'm supposedly going to be  
29 the SEB chair for West Valley. I really need to talk  
30 to you. I've never been one before, so.

31

32 (Laughter)

33

34 MR. SHEPPARD: So part of the corporate  
35 project team is going in and trying to put together a  
36 standard set of criteria on what we want in the  
37 training. And I think as we put -- stand up the --  
38 work, that's going to be one of the goals of the  
39 Acquisition Management Branch, is to formalize that and  
40 to make sure we have that.

41

42 Kind of on a tangent to your -- to your  
43 question, but I think in part of the cost evaluation  
44 process, when you look at who makes up the SEB, they  
45 have to evaluate the technical proposals which come in  
46 on a wide variety of activities from, you know, D & D  
47 and non-contaminated facilities to, you know, handling  
48 high-level waste and spent fuel. And also, you have to  
49 look at the cost. You know, you have to be an  
50 accountant and everything else.

51

1           So that -- that three- or five-member panel  
2 of the SEB has to have some pretty wide talents to be  
3 able to be capable enough of -- of evaluating say a \$4  
4 or \$5 billion cost proposal.  
5

6           I think part of the lessons learned that we  
7 learned out there is the instructions probably weren't  
8 as -- much more complicated than they should have been.

9           In development of the costs proposals, they had asked  
10 for variations or multiple cost proposals. And when  
11 they came in, there was such a wide range received on  
12 the cost proposal against criteria that was overly  
13 complicated, gives you a complicated report and a  
14 complicated decision, and a lot of room for the  
15 protests.  
16

17           So I think what we learned there is you  
18 really have to be specific, make sure you narrow what  
19 you ask for. Don't make the bidders go out there and  
20 propose more than -- than is absolutely needed to  
21 evaluate. But the stuff that you do need, make sure  
22 it's clear, concise, and simple so you can have a  
23 standard, uniform, and fair review, particularly on the  
24 cost side.

25           So I think that's the key that we learned on  
26 -- on -- River Corridor, plus going back to the  
27 process. And again, this is all hindsight, and I  
28 wasn't involved so I don't mean to be critical. You  
29 kind of had three rounds of discussion. To me, if you  
30 can't get it done in one, you need to improve your --  
31 your questions and answers and methodology, and that  
32 literally has been dragging on and dragging on and  
33 dragging on, and is costing both the incumbent money.  
34 It's costing DOE money, and it's costing the other  
35 bidders money, especially the protesters. And we have  
36 to pay those fines and penalties at the end.  
37

38           So we're learning a lot from River Corridor,  
39 even though it may be one -  
40

41           MS. SALISBURY: You lose -  
42

43           MR. SHEPPARD: Right. We're losing time in  
44 the end and we're losing time on our schedule, so.  
45 Something that we wanted to transition to, you know.  
46 See, that's -- that change where we go to, you know,  
47 100 percent performance-based contract and -- and we're  
48 just a little bit delayed on that.  
49

50           MR. AJELLO: Dave.  
51

1 MR. SWINDLE: Just one thing. On the four,  
2 they weren't all EM, meaning EM headquarters. If you  
3 look at the Bechtel Jacobs, the Oak Ridge issue, and  
4 again, whether you call it protest or challenge --  
5 given that there was a bidding process and people  
6 withdrew.

7  
8 There was a DUF-6 facility.

9  
10 MR. SHEPPARD: Okay.

11  
12 MR. SWINDLE: Okay. And then I can't  
13 remember whether the Mound issue was challenged at  
14 least originally. I think GSA or someone challenged  
15 it.

16  
17 MR. SHEPPARD: No.

18  
19 MR. SWINDLE: I don't remember the details.

20  
21 MR. SHEPPARD: No protest.

22  
23 MR. SWINDLE: There was some -- one other one  
24 out there. Again, it was at the contractor -

25  
26 MR. SHEPPARD: Right.

27  
28 MR. AJELLO: You know, Jessie spoke this  
29 morning about the human capital strategy. I have told  
30 her a number of times that this is a very important  
31 function in the Department and that it needs to be  
32 elevated and recognized as important. It isn't the  
33 kind of situation where you have people who are just  
34 caught for the purposes and quickly assembled on teams.

35  
36 This is an entire career path and a -- and  
37 like the cadre of people -- she used that word -- that  
38 she's trying to create that are well recognized, well  
39 rewarded, incentivized, and made accountable for these  
40 things.

41  
42 Historically in the government, these SEBs  
43 have been borrowed. Resources and people do them at  
44 the edges of their time, literally. But 80 or 90 --  
45 correct me if I'm wrong -- percent of this Department's  
46 -- this program's funding is through a major contract  
47 of one sort or the other.

48  
49 And so if -- this should be as important as  
50 the scientific and technical and project management  
51 capabilities of the program. This is where the rubber

1 meets the road. And I'm just suggesting -- you  
2 probably agree with this -- that this is a very  
3 important role that you've got.  
4  
5 MR. SHEPPARD: Yeah.  
6  
7 MR. AJELLO: And Norm. You know, this is a  
8 kind of a softball.  
9  
10 PARTICIPANT: No pressure.  
11  
12 MR. AJELLO: No pressure.  
13  
14 MR. SHEPPARD: I've felt it for 16 months  
15 now.  
16  
17 MR. AJELLO: I think we're trying to be  
18 supportive and helpful in having, you know, recognized  
19 how important this function is.  
20  
21 MR. SHEPPARD: Yeah, and that's an excellent  
22 point. And I'll go back to Mr. Card's comment. The 12  
23 corporate project managers were briefing him, and  
24 they're going through all their high-risk items and  
25 what we could do to do things better. And they came to  
26 Charlie Dan's presentation on contracts. And Mr.  
27 Card's quote was, you know, it's great, all you project  
28 managers are doing great things and -- and through the  
29 implementation of these improvements going to  
30 accelerate work, he said. But the SEB chairman has the  
31 most influence over any -- of the largest amount of  
32 dollars that go out of this Department. They can  
33 change, you know, long-term, eight to 10 years, \$4 or  
34 \$5 billion, \$6 billion, you know, in a -- in one  
35 process through that contract itself.  
36  
37 So we have -- and that's going to be one of  
38 our goals over the next 12 months as we stand up, is to  
39 really institutionalize that and make sure that we have  
40 the right people trained and in the right places. We  
41 don't have that right now. We need to continually  
42 improve that.  
43  
44 The other part is, they are kind of thrown  
45 together. And then, when I went to Mound, you kind of  
46 -- great group of people in the end, but you know -  
47  
48 MR. AJELLO: Right.  
49  
50  
51 MR. SHEPPARD: -- what I was told was, oh,

1 well, they're going to give you the four people who,  
2 you know, just don't have things to do and, you know,  
3 or that, you know, this one guy's a pain so they're  
4 going to put him on the SEB with you, you know.

5  
6 So that's a challenge that we have. We have  
7 to make sure that it's emphasized and prioritized that,  
8 you know, you're not going to get the leftovers on the  
9 SEB. That's the most important thing for a site and  
10 the contract coming up.

11  
12 And we have to do it in a timely manner. A  
13 lot of times the contract action is -- you know, we  
14 realize too late that, you know, you're already two  
15 months behind schedule. And -- and the selection  
16 process for an SEB for the Mound was delayed, and all  
17 of a sudden, my name came up and now I'm already two  
18 months behind schedule the first day.

19  
20 So we have to plan these things out, give  
21 enough lead time so that we can do our acquisition  
22 strategy and our acquisition planning, appoint an SEB  
23 and an SSO, make sure they're trained, make sure the  
24 team's quality, set them up with the right tools to go  
25 out and put the RFP out there, put the schedule out  
26 there, and stick to it.

27  
28 MR. AJELLO: Very, very important. I mean,  
29 we're stressing that, I think, and we're trying to  
30 reinforce that from our objective perspective as well.

31  
32 Any other thoughts or comments before we  
33 break for lunch? I think we deserve some lunch.

34  
35 (No response)

36  
37 MR. AJELLO: Okay. We'll -- we'll adjourn  
38 again in about -- let's say one hour from now, or  
39 precisely 2:00. Thank you.

40  
41 (Whereupon, at 1:01 p.m., the proceedings  
42 were adjourned for lunch, to reconvene at 2:00 p.m.,  
43 the same day.)

44  
45  
46  
47  
48  
49  
50  
51

**A F T E R N O O N   S E S S I O N**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

1:51 p.m.

MR. SWINDLE: Stimulating discussion earlier.

MR. AJELLO: Yes, stimulating discussion.

It's a little bit before the time we said we would reconvene, but I think we, in the interest of time, should get underway because we're already late.

Just to refresh on where we are, instead of closing out the morning session with each of the project team reports, we finished the Contracts report and discussed that, and we're about to take the next two reports, Metrics and End States.

And those of you who have just joined us and haven't signed in, please do that.

So I'd like to introduce Dennis Ferrigno, who will deliver the Board's report on Metrics.

Discussion of EMAB Project Team Report Findings

**Metrics Team**

DR. FERRIGNO: Thank you, Jim.

As the Board knows, we've had an opportunity over the last -- I have the microphone. Can you hear me?

PARTICIPANT: No.

DR. FERRIGNO: Can you hear now? Thank you. I feel like -

PARTICIPANT: (Off mike)

DR. FERRIGNO: I must. I seem to be the only one who has problems with this.

The Board knows that over the last, what, six months we've been working on looking at the Metrics Review. And I just want to recognize a few folks for the record who helped in preparing the Metrics Team Report. And that would be John Mourghan, who can't be with us. And I guess he is no longer on the Board. I don't know what I did to him, but. And Ray Loehr also is not on the Board anymore. Plus myself.

There are other folks, too.

PARTICIPANT: (Off mike)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

(Laughter)

DR. FERRIGNO: Must be, you know. I must have -- I don't know.

And the other folks that have participated, obviously.

Jim, thank you very much for our conversations and times that we're having together.

And, Dave Swindle, the same.

And from the staff, Jim Melillo and Mary and Michelle have been very helpful in helping us structure some of our thoughts.

A little background. I don't think we need to go through the Top-to-Bottom Review. Originally, this talk was going to be the first talk, so I just really want to walk you through very quickly some of the background information. But we essentially reviewed again the Top-to-Bottom Reports. We've looked at some of the EM policy.

Moving on to the next slide, we definitely have looked through the gold chart reporting, the performance measure, the IG OMB guidance and recommendations, especially with regard to some of the performance objectives and closure delivery.

Next slide, please.

The actionable items from review. I would say the first and fourth bullet here -- that is, developing and refining cost and schedule measures for the program, and -- the fourth one, reviewing the measures and their respective connectivity to cost and schedule. What I want to do is come back and visit these, but those are essentially linked together and they have similar themes.

We talked through contracts before lunch, and the contracts for closures -- don't necessarily have the -- the connectivity or at least the apparent connectivity to the performance measures. And I'll get through those details and the 16 performance measures.

When we look at the contracts where it's a

1 cost in the schedule, is there a direct connectivity.  
2 And that might be a question of enlightenment, although  
3 for the last four months we've been getting  
4 enlightened, or maybe there needs to be a little bit  
5 more connectivity.  
6

7 The second bullet, providing a platform to  
8 measure and drive accelerated clean-up. The process  
9 and priority selection for accelerated clean-up choices  
10 may require at least a little clearer selection  
11 criteria. So we'll talk about that.  
12

13 And then, finally, providing a systematic  
14 approach for driving the risk reduction. I know we  
15 addressed that this morning a little bit on risk  
16 reduction, and surely we've gotten a better  
17 understanding of maybe some of the priorities of risk  
18 reduction. However, from the last year's report on  
19 risk reduction, there was quite a bit of detail put in  
20 the last EMAB report, and some of the -- Mr.  
21 Cunningham's strategy on risk reduction, which I think  
22 is thorough, however it doesn't go through the process.  
23

24 In other words, what are the risk scenario  
25 identifications, the quantifications, and how do you  
26 monetize these choices. And this may be a question  
27 that the Metrics Team came up with that there is no  
28 straight answer. But we did raise it as a question.  
29

30 Let's skip the next one, please, and let's go  
31 to some of the comments or findings.  
32

33 Compliments, obviously. We think there's  
34 been a lot of progress -- Number one, yes. Thank you.  
35

36 There's been a lot of progress over this last  
37 year, and I wish Joe Nolter were here because I know he  
38 and the team have been working very hard on putting a  
39 tracking structure together for the 16 performance  
40 measures which then would turn into earned value for  
41 measuring progress.  
42

43 What I wanted to do, though, for the sake of  
44 the Board is really some conversations that the Metrics  
45 Team has been having with regards to a parallel to  
46  
47 Understand from our perspective, what are these 16  
48 performance measures.  
49

50 And let me take it out of the context of  
51 environmental management and let's put it into a house

1 or a building, okay. When I go and buy or I'm going to  
2 occupy a home, or I'm going to go build a vertical  
3 construction, structure, maybe a 24 -- 20-story  
4 building, I generally contract the contractor for a  
5 cost and a schedule for that building.  
6

7 And while he's contracted for that -- it  
8 might take a two-year period to build, let's say, that  
9 20-floor facility -- he designs it and then he builds  
10 it. And when he's doing that, or when the company is  
11 doing that, they have tons of steel, okay, that's in  
12 the building. So they're putting as they progress so  
13 many tons of steel. They have so many yards of  
14 concrete that they're pouring. They have so many  
15 linear feet of conduit for their electrical lines and  
16 pulling their cables. They have so many linear feet of  
17 piping.  
18

19 Well, when we contract that contractor for  
20 the building, even though it's a cost and schedule that  
21 we pay for at the end and we may have some progress  
22 payments, we essentially look to that contractor with  
23 the responsibility to deliver that building, and we can  
24 see that over the period of time of those two years  
25 that he is progressing because he's put these many tons  
26 of steel in, so many yards of concrete, so many linear  
27 feet of conduit, so many linear feet of piping.  
28

29 Well, now let's go back to the ER program.  
30 What we understand the metrics are is an indicator to  
31 have confidence over long periods of time, like some of  
32 these closure contracts are five years, to really get a  
33 sense that, is progress being made against the baseline  
34 strategy we set for essentially completing the  
35 environmental restoration project.  
36

37 And when we look at these baseline 16  
38 performance measures, we see the issues of so many  
39 cubic meters of waste, mixed waste, hazardous waste,  
40 radioactive waste, so many containers of transuranic  
41 materials, et cetera.  
42

43 So with regards to understanding progress and  
44 essentially getting a sense of delivery, we applaud the  
45  
46 Environmental management group in using this to be able  
47 to establish the bases of what earned value is.  
48

49 But -- okay. There's the "but." And that  
50 is, we're going to get to -- one of the comments is,  
51 where does that connect in a hard line, and does it or

1 is it needed to connect in a hard line to the actual  
2 contract and the schedule, okay.

3  
4 So let's go to No. 2, and we'll revisit the  
5 first question, the -- or the compliment. It'll come  
6 into a question, though.

7  
8 The second question is efficiency  
9 considerations. When you look at -- can you turn to  
10 No. 2?

11  
12 When you look at the gold charts and your  
13 measures seem to comply when progress is not  
14 necessarily being totally achieved due to factors such  
15 as poor site characterizations, we have a little bit of  
16 concern.

17  
18 Patty, one of the areas that we think in your  
19 new job, even though ISM is a go/no-go, okay, we're  
20 thinking that in the 16 performance measures,  
21 integrated safety management is in all of the measures.  
22 It's in all the projects. It's in the cost in the  
23 schedule. However, should there be a metric that says  
24 a contractor is really doing a good job in safety; is a  
25 contractor or a site doing a marginal job, et cetera.

26  
27 Now, we understand in the contracts you have  
28 some killer clauses and things like that that are quite  
29 effective. And the other thing is, is if you don't  
30 have a safe job, you're not going to have an efficient  
31 job, which translates to more cost on the part of the  
32 contractor, which may in fact be a penalty in fee and  
33 all those kind of things.

34  
35 But maybe, just maybe, performance measures  
36 in metrics with safety as a bulletized item, since it's  
37 such an important factor, maybe we would ask a  
38 reconsideration of some of that.

39  
40 The second thing we saw was, is that volume  
41 efficiency in -- whether it be transuranic waste, low-  
42 level waste, low-level mixed waste, glass waste  
43 containers, et cetera. I think Paul brought out a  
44 great example in Savannah River this morning, and I've  
45 heard him say that before at one of the other public  
46 meetings that I attended.

47  
48 That they were able to in Savannah River get  
49 a better efficiency by optimizing the glassification  
50 and being able to get more volume in the container and  
51 thus eliminate a second train. But also, eliminate

1 cost with transportation because if we have, let's say,  
2 a 20 percent efficiency, all of a sudden we're  
3 eliminating one container out of every four shipments  
4 because we don't have that container because we've put  
5 more stuff in one of those containers.

6  
7 We also have reduced the amount of burial  
8 space necessary. We're reduced all of the handling,  
9 and of course, we've reduced risk.

10  
11 We think volume efficiency is a metric that  
12 should be measured as one of the performance measures.  
13 Now, that says all of a sudden we're going to 18  
14 performance measures versus 16; where do you stop.  
15 That's just a judgment call on the part of EM, but we  
16 think those are some areas that one might want to look  
17 at.

18  
19 In addition to that, though, there will be  
20 the audit and quality controls to make sure that those  
21 efficiencies, especially in volume reduction, are being  
22 achieved.

23  
24 We used the term when we were looking at some  
25 of the presentation and some of the reviews of, will  
26 contractors, quote, "game the program"? Okay. In  
27 other words, I've got these many cubic meters of waste  
28 that have to go out the door. Get them out the door.  
29 I'm sending them, and we'll see -- we don't think  
30 that's going to happen, okay. However, there is the  
31 potential for that. So the QA and some of the review  
32 might be something that might earn some good  
33 investment.

34  
35 The Metrics Team on No. 3 looked at risk  
36 reduction. And quite frankly, was it Ray Loehr, is it?  
37 This was his item of expertise. So if I don't do this  
38 justice, Jim or -- or -- Jim or Jim, please pitch in  
39 because I know we've had a lot of conversation in this  
40 area.

41  
42 Risk reduction means a lot of things to a lot  
43 of different people. There's obviously the financial  
44 risk of a project, okay. There's the health and safety  
45 risk for exposure to the worker, to the stakeholders in  
46 the construction site and also to the stakeholders  
47 outside the site boundaries.

48  
49 There's risk with regards to the execution  
50 risk of a project. There would be schedule risk in  
51 what's happening to a project; is it going to extend,

1 which it then again might in turn extend staff,  
2 overhead, as that goes.  
3  
4 There's work force risk. Are people going to  
5 be retained once they see coming to the end of a  
6 project. Do they want to bail out and go get a  
7 different job or, you know, do something different.  
8  
9 So there's a lot of risk issues. A process  
10 that defines consistency of risk identification, risk  
11 scenario, and the cost and the impact of the program  
12 may need additional documentation.  
13  
14 That's what the Metrics Team came up with,  
15 although we can't really criticize, you know, from our  
16 gut feel. I mean, you're getting rid of special  
17 nuclear material. You're taking care of high-hazard  
18 areas. You're reducing the footprint of the protected  
19 area and things like that. Those are significant risk  
20 reductions.  
21  
22 What we didn't see was the process of how  
23 were they identified and what were the scenarios and  
24 what risk factors of those things that I had identified  
25 drove that decision of why this versus something else.  
26 So that might be an actionable item that one could  
27 take a look at.  
28  
29 No.4, please.  
30  
31 Cost and schedule measures. If we see --  
32 obviously, the IG and OMB have both commented that the  
33 lack of cost and schedule measures make it difficult  
34 for the program to demonstrate success. We think  
35 that's changed a lot, okay, especially from the report  
36 this morning. I mean, it's just a great report that  
37 Paul gave on all of the activities that have been  
38 accomplished over these past two years and of course  
39 what's also forecasted in the future for -- for the  
40 accomplishment.  
41  
42  
43 But we also think that maybe some of the  
44 drilling down on the issues of earned value with the 16  
45 performance metrics to ensure cost schedule and other  
46 aspects need to be looked at.  
47  
48 Let's talk about this a second. If I am  
49 measuring the building of a number of tons of steel,  
50 like the analogy I brought before, the number of tons  
51 of steel, the cubic yards of concrete, et cetera. Am I

1 focusing on managing the contractor as opposed to the  
2 cost and schedule, because it's managing the contract.  
3 However, we find that DOE/EM has gone to Congress and  
4 essentially said, progress is these cubic meters of  
5 waste, these number of sites that are being closed, et  
6 cetera, et cetera, and I need this money.

7  
8 When you look at the 16 performance measures  
9 which are being reported to Congress and of course  
10 being established by our productivity of the program  
11 and then you drive in and drill down into some of the  
12 closure contracts, it's been publicly said at Rocky  
13 Flats by some of the contractors in public meetings --  
14 I've heard it so I'll repeat it -- in that their  
15 contract is to cost, okay. Their contract is to cost,  
16 and yes, we have a schedule.

17  
18 So now, one draws the conclusion that if I  
19 have the 16 performance measures in which EM Program is  
20 reporting to Congress and I have the contract here  
21 sitting to cost, what stick do I have and how am I  
22 reporting?

23  
24 We don't necessarily -- even though we  
25 intuitively gather the connectivity, we don't see the  
26 direct connection. It's almost like looking at my hand  
27 versus looking at the shadow of my hand. The 16  
28 performance measures are the shadow, okay. Yes, it  
29 does give an indication, but the real image is the cost  
30 and schedule.

31  
32 And what we're thinking is, is that if there  
33 were a way to connect -- and we don't have any ideas  
34 yet, okay -- but to connect the cost on the schedule  
35 with the measures, we think that if you drill that  
36 down, then you've got everybody on the same page when  
37 you go to Congress and say, I want this much money,  
38 okay.

39  
40  
41  
42 Now, you've got everybody on the same page  
43 and you're not being left behind with the contract at  
44 the site. Just a thought.

45  
46 Next one, training. We thought that training  
47 of the performance measures value-added. We do this  
48 repeatedly in the construction industry, and it's  
49 either new training or refresher. Bringing everybody  
50 on the same page as far as consistency of reporting.  
51 Bringing everybody onto the same page as methodology of

1 reporting the metrics is extremely important. Giving  
2 them a -- in industry we might call it a project  
3 management activity report, okay. You're calling it  
4 your performance measures and gold chart. Same thing,  
5 okay. What progress have I made?  
6

7 We -- we don't necessarily think just giving  
8 a form to somebody is going to do it. One, because we  
9 want them to understand the form, but the other is that  
10 we want them to buy in. We want them to buy in what is  
11 that report doing. Why are we reporting this? And  
12 it's the old story of, if I can get everybody inside  
13 inspired, all of a sudden, now I've got everybody on  
14 the same page and it's going to be a lot easier to  
15 lead.  
16

17 Maybe training in this area at the sites  
18 through the contractors where it's consistent, okay,  
19 might be helpful in understanding these earned values,  
20 how it's driving, how it's driving the budgetary  
21 process, and of course, how the reward will be done.  
22

23 In summary, I believe EM has been doing a  
24 great job, and my hat is off to wrestling with a tough  
25 topic and identifying and monetizing some of the very  
26 fundamental issues of progress and earned value. We do  
27 need to refine, though, and possibly polish that  
28 Rosetta Stone, okay, and be able to get the metrics to  
29 have connectivity to the contract -- a little more  
30 connectivity, excuse me, okay. Get the metrics to be  
31 trained, okay, and in some areas not allow or tolerate  
32 any gaming with efficiency, volume efficiency, and  
33 things like that that we spoke to.  
34

35 Now, I said I would come back to the -- get  
36 this down -- I would come back to the actionable items.  
37

38 And would you please go back to the -- there  
39 it is. Okay.  
40

41 So, Jim, I would say that the Metrics Team  
42 essentially has the connectivity on the actionable  
43 items in that actually developing and refining cost  
44 schedule measures for the program and the review of the  
45 measures and their respective connectivity to the costs  
46 and schedule incentives, they're similar, okay, and  
47 they have similar themes.  
48

49 The contracts for closure need more  
50 connectivity, as I said before, to the performance  
51 measures of the 16 criteria. EM may desire to revisit

1 this and possibly place clearer -- even though they're  
2 very clear right now -- but even more direct reward fee  
3 incentives on interim progress and measures prior to  
4 contract cost closure at the end.

5  
6 The other comment about "provide a platform  
7 to measure and drive accelerated clean-up," we believe  
8 that accelerated clean-up can mean a lot of things,  
9 okay. The baseline and follow-on acceleration against  
10 that baseline need to be clearly understood.  
11 Essentially, what is the acceleration of, okay. Is it  
12 that a contractor agrees to a baseline and if  
13 accelerating can complete tasks in later years, okay.  
14 In other words, the later year tasks early on. That's  
15 surely a good strategy, and I know Rocky Flats has done  
16 that. And that's how we're receiving some of that, but  
17 is that prescriptive to all sites? Okay, is that what  
18 we're dealing with in accelerated clean-up? It could  
19 be one item; it could be everything.

20  
21 Do we want to receive additional cost savings  
22 and fees for that? Well, obviously, yes. In looking  
23 at the life cycle analysis, and again now we're  
24 starting to touch some of the things on contracts, do  
25 we want to apply a commercialized approach of a phantom  
26 capital employed, okay. Because when we sell it to  
27 Congress and we accelerate, okay, even though the  
28 Treasury is not going to take credit or interest rate  
29 and stuff like that, real life says it is, okay. And  
30 it does cost the taxpayers some money.

31  
32 So you know, when I accelerate something and  
33 I make my choices on acceleration and I -- and I drop  
34 two years off a program, what's the capital employed on  
35 a couple hundred million dollars or \$600 million or \$1  
36 billion? That's a lot of money, okay. So life cycle  
37 might even show even more incentives there.

38  
39  
40 Are the fees reflective of clean-up costs of  
41 life cycle savings. I think we addressed that, okay,  
42 this morning, and I'm -- I'm pleased to see where we're  
43 headed. But we do need to -- and Jessie, while you  
44 were coming in I think I just finished the risk  
45 reduction. Risk reduction, you're doing it, okay.

46  
47 However, the synergy of each site, a  
48 systematic approach, and the documentation, we couldn't  
49 get it, okay. That doesn't mean it isn't there. And  
50 -- and there's huge progress from two years ago when  
51 we look at what Mr. Cunningham reported last year in

1 seeing all those things. But the Metrics Team, when we  
2 looked at it, didn't quite understand the process on  
3 how you got there, okay.  
4

5 So those are -- that's our report. I'll try  
6 to answer the questions of the three members. And Jim  
7 and Jim, you were there with me, so --  
8

9 MR. AJELLO: Right.

10 DR. FERRIGNO: -- maybe we can --  
11

12 MR. AJELLO: Yes.  
13

14 DR. FERRIGNO: -- we can try and defend this,  
15 or at least get better educated so we can do some  
16 further progress.  
17

18 MR. AJELLO: Thanks, Dennis. Thanks very  
19 much. There's a lot of work in here, a lot of work, as  
20 all these reports -- there's a lot of work behind the  
21 summaries, and that's what we've got here, the summary.  
22

23 Let me -- let me ask you to sort of embellish  
24 on this -- the notion of connectivity. I just happen  
25 to be looking at the fourth item on the -- on Slide 4.  
26

27 Let me ask it another way. What is  
28 disconnected now? Maybe it would be easier for us to  
29 understand what you might think is disconnected.  
30 Because it says, "Review the measures and their  
31 respective conductivity -- connectivity to the cost and  
32 schedule incentives in the contract."  
33

34 DR. FERRIGNO: Well, it's actually -- I don't  
35 think it's broken, okay. As a matter of fact, quite  
36 the obvious -- quite the opposite. It's not broken;  
37 it's doing well.  
38

39 But it just comes down to, if I'm going to be  
40 measured in a certain way, I want to essentially  
41 prepare myself for the report card, okay. If I look at  
42 a model Rocky Flats model, okay, I see that the  
43 contract says I have one measurable goal: 2006, this  
44 cost, and this is it, okay. And if I go sooner, I have  
45 some incentives, okay, both schedule and cost  
46 incentives.  
47

48 Now, all of a sudden, I introduce, this  
49 quarter I'd like you to put out these many cubic meters  
50 of waste, this quarter I'd like these many sites  
51 closed, this quarter I would like this.

1  
2 Now, I realize, and the team realizes, that  
3 that -- that is important to show progress. And maybe,  
4 just maybe, cash flow of percentage fee in the future  
5 might be enough to incentivize, to stick to what the  
6 baseline of that volume is, although we heard from Paul  
7 this morning that it's not going to be prescriptive --  
8 Paul or Frank. Maybe it was Frank.  
9

10 MR. AJELLO: Frank.

11  
12 DR. FERRIGNO: That DOE's not going to be  
13 prescriptive and say, you must stick to this baseline  
14 that we give you, or if this contract baseline is this,  
15 fine, that's -- that -- what it is, it is.  
16

17 What we're interested in is the final cost  
18 and final schedule. But yet, we've got Jessie and her  
19 team going to Congress saying, this year I'm going to  
20 deliver you these many cubic meters of waste, and I'm  
21 going to do this. And that -- of course that's going  
22 to show progress, but it's not connected, not connected  
23 to the end contract.  
24

25 Now, is that a huge problem; I don't know.  
26 But I'm not incentivizing my contractor to the same  
27 thing I'm reporting to my boss.  
28

29 MR. AJELLO: I see.

30  
31 DR. FERRIGNO: Now, if that's a problem, then  
32 we need to fix it. If it's not a problem, then we just  
33 need to understand it.  
34

35 MR. AJELLO: Okay. But --

36  
37 DR. FERRIGNO: Does that help?

38 MR. AJELLO: Yes, it does.  
39

40 Other questions and discussion on that? Tom.  
41

42 MR. WINSTON: That was a real good overview,  
43 Dennis, and I'm going to ask a question on the one area  
44 you said you were going to probably defer to somebody  
45 else, and that's on the risk. Although I thought you  
46 actually talked quite eloquently on the challenge of  
47 measuring risk reduction.  
48

49 And my point there is that DOE probably needs  
50 to do as good as they can in terms of measurement of  
51 risk or risk reduction, recognizing that they're never

1 going to be able to come up with a number that captures  
2 risk reduction or a factor that does that to everyone's  
3 satisfaction. Jessie will clean up the complex before  
4 she gets everyone to agree on what -- what a risk  
5 reduction metric really is.

6  
7 I mean, there are so many facets to risk and  
8 risk assessment and risk reduction. You've got the  
9 worker risk, as you mentioned; you've got ecological  
10 risk; you have public health risk; you have  
11 intergenerational transfer risk; you have public values  
12 that typically is added to scientific information.

13  
14 So in looking at this, clearly, I guess, DOE  
15 needs to capture their progress on risk reduction so  
16 that they can convince Congress and the American public  
17 that they are -- that DOE is making adequate progress.

18 But if they try to sell it as the be all and end all  
19 of, you know, risk reduction and begin to use risk  
20 reduction to -- factors to set budget priorities  
21 between sites and things like that, I think DOE will  
22 have a big problem.

23  
24 But clearly, it's -- it's a driver for the  
25 program, so some level of -- of metric is needed. I  
26 think my point is, is that DOE will probably need to  
27 recognize going in the difficulty and the fact that --  
28 that you can only take that so far and it can only be  
29 used for certain kinds of things, such as convincing  
30 Congress in the -- in the broadest sense. And that's  
31 why you get into things like -- that intuitively, such  
32 as volume reduction, footprint reductions. Those  
33 sometimes are, you know, indicators that talk about  
34 risk reduction rather than being anything that a risk  
35 assessor would look at as being something they could  
36 take to the bank. You know, minimize cancer risk and  
37 things like that. You could -- you -- DOE could be,  
38 you know, trying to -- to solve that chestnut for  
39 decades before that would be a credible, you know, a  
40 credible answer that they could provide.

41  
42 DR. FERRIGNO: I don't know if there's an  
43 answer. I think you were pretty good at just answering  
44 the question.

45  
46 When we had designed nuclear power plants  
47 years ago, okay, although I'm looking forward to  
48 designing nuclear power plants in the very near future.

49  
50 MR. AJELLO: You may get your chance. If  
51 that energy bill passed. I hope it worked out. Did

1 it?

2

3

(Laughter)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

DR. FERRIGNO: Okay. We tried to monetize -- like, one example would be as low as reasonably achievable, okay. What was the cost factor at that time of radiation exposure. And I'm not going to put a number on it because I don't want to in a public meeting do that.

But we had monetized a guideline that -- it was an American national standard that we had looked at. We could never agree to what the actual number was, but we did have some guidelines.

And it allowed choices to be made, not choices of do I do this or do that, but in the design guidance. You know, what was I looking and did I have a comfort level, okay.

Now, I don't know how you'd translate something like that to this program. We have some -- a lot of questions, Jessie. We don't have answers.

ASSISTANT SECRETARY ROBERSON: I know. That's good.

DR. FERRIGNO: But how do you essentially go through that process of connecting all of those risk factors and then, now, how do we make our priority choices. Because this program is not a short program. Even though you've cut off a lot of years, we still have a long way to go. So how do we make those choices site by site, program overall.

MR. WINSTON: And I guess my question then, really, is -- is, do you feel that concept that I was trying to describe there is captured in your recommendation here and provide a systematic approach for driving the risk reduction. Is that sort of difficulty or challenge embodied in that recommendation? Is that one of the reasons you're not being more specific?

DR. FERRIGNO: Only because, one, Ray Loehr has a lot more expertise in this area than I have, and that's one of the things that he was really bringing to the Metrics Team. And it's unfortunate that Ray isn't here with us to explain it. So you've got the B Team explaining this, okay.

1 MR. WINSTON: You'll get a lower fee.  
2  
3 (Laughter)  
4  
5 DR. FERRIGNO: Do I get a fee?  
6  
7 (Laughter)  
8  
9 ASSISTANT SECRETARY ROBERSON: Lunch.  
10  
11 DR. FERRIGNO: Lunch.  
12  
13 (Laughter)  
14  
15 DR. FERRIGNO: But my feeling is, is that we  
16 do -- thank you. We do need to make it an actionable  
17 item. We need to put the right people looking at this  
18 as far as the technical expertise. Some of the people  
19 who, you know, can look at this and then come up with  
20 and say, you know, you've got something here, or I  
21 don't think so. I think we just keep on doing what  
22 we're doing, but at least we went through the process.  
23  
24 MR. WINSTON: This Board had in the past, and  
25 I promised at the last meeting I was not going to be  
26 bringing up old news with the Board, but we did have a  
27 group that tried to assist the Department and Mark  
28 Gilbertson in the preparation of the Risk Report to  
29 Congress. And we went through some of these same kinds  
30 of questions at that point in time, and I was chair of  
31 the EMAB committee that was involved in that.  
32  
33 And it ended up, the report began to thin  
34 things in terms of high, medium, and low, and never  
35 really got down to a much greater level than that. And  
36 that was comparison of risk.  
37  
38 And so my point here is just a degree of  
39 caution that's needed. Even though everyone asks, you  
40 know, and Jessie says, we want to have this driven by  
41 risk reduction, well then, how do you measure that and  
42 how do you articulate that you've actually achieved it.  
43  
44 DR. FERRIGNO: What we discovered -- I'm  
45 sorry, Jessie.  
46  
47 ASSISTANT SECRETARY ROBERSON: No, go ahead.  
48  
49 DR. FERRIGNO: What we discovered wasn't --  
50 we didn't take exception to the choices that were made.  
51 I mean, intuitively they looked like what we would do,

1 okay. But what we didn't understand was, is the  
2 process to make those choices.  
3  
4 ASSISTANT SECRETARY ROBERSON: May I comment?  
5  
6 MR. AJELLO: Absolutely.  
7  
8 ASSISTANT SECRETARY ROBERSON: Oh.  
9  
10 MR. AJELLO: Yes.  
11  
12 ASSISTANT SECRETARY ROBERSON: I mean, I  
13 agree. I do agree with everything that I've -- I've  
14 heard you say. It's an interesting -- I was listening  
15 to you guys go back and forth, and I will tell you, we  
16 were talking about risk states end states. This is  
17 actually one of those voids.  
18  
19 Our problem is less with the analysis than  
20 the logic of how the pieces fit together. It may not  
21 appear to be such for a small site like, well, you  
22 know, Rocky wasn't a small site but it was fairly well  
23 integrated. Mound, pretty far along, fairly well  
24 integrated. Fernald.  
25  
26 But for the larger sites, it's important in  
27 how you set your -- how you sequence and prioritize  
28 your work. It doesn't mean something is less important  
29 overall.  
30  
31 MR. AJELLO: Right.  
32  
33  
34 ASSISTANT SECRETARY ROBERSON: But you have  
35 to approach it in a way that you're having a positive  
36 impact as you move through.  
37  
38 So it's actually -- this is actually one of  
39 those reasons we were talking about earlier that the --  
40 the risk-based end state analysis is so important to  
41 it, because it will help us better understand how to  
42 prioritize and sequence the work within.  
43  
44 We -- we tend to have actions that are  
45 sometimes segmented and regional because we have, you  
46 know, just like there are pipelines in DOE, the  
47 pipelines -- contractors, there are pipelines among the  
48 projects. And we've got to force that thought process  
49 together.  
50  
51 And I think that's important to do to get to

1 what you're saying, but I -- I agree. We've definitely  
2 got room to go.

3  
4 One other comment on the connectivity to cost  
5 and schedule. We've got room to go there as well, too,  
6 because we're at different maturity levels on our -- on  
7 our projects. So it isn't just training for our  
8 contractors. It's reinforcement in our federal work  
9 force. It's tying our performance system to the same  
10 measures as it is for the contractor. We've just gone  
11 through the first evolution of that in our performance  
12 system for our federal employees.

13  
14 So you're absolutely right. We've got room  
15 to go in, and any way we can accelerate that is  
16 important. But we definitely --

17  
18 DR. FERRIGNO: I don't know what we're  
19 supposed to do on the actionable items, whether EMAB  
20 takes them or we work together as a partnership. I --  
21 I suspect you have an idea and you're going to tell us  
22 what we do.

23  
24 MR. AJELLO: Yeah. I think this is one of  
25 the most important contributions we could make. And  
26 it's my commitment to Jessie to -- to use this panel to  
27 do that, so we're going to do that, one of the things  
28 that we'll have after these discussions today.

29  
30 And you've done a great job because you've  
31 already said a -- to talk about each of these three  
32 areas and come out with a list of actionable items.  
33 Because I think it's one thing for us to brief people  
34 on what we found; it's another thing for us to suggest  
35 how you -- next Tuesday, or whatever your date or plan  
36 is. So it's something that we should be able to be  
37 very clear about in terms of implementation.

38  
39 It would be up to the program to decide  
40 whether it can or should do that, but we -- we at least  
41 want to come away with a notion of what is very  
42 practical. So that's what we're trying to get done.  
43 And we have some time right after the third one to --  
44 to discuss that.

45  
46 But I did want to get back to the second one  
47 that you had, Dennis, which is provide a platform to  
48 measure and drive a platform. I wanted to get your  
49 understanding of this. And my second question was, you  
50 know, Paul gave us this morning his nine -- nine  
51 priorities or goals that he went to. And so did -- did

1 your team find out -- or find that when you rolled up  
2 all of the things that you looked at that they added up  
3 to these things? Or are you saying in effect that  
4 there's a disconnect when you roll up sites and roll up  
5 programs, that they don't necessarily equal these?  
6

7 DR. FERRIGNO: No, not at all.

8  
9 MR. AJELLO: Not at all, okay.

10  
11 DR. FERRIGNO: No. As a matter of fact, we  
12 thought there was a lot of thought and very deliberate  
13 action understanding the work breakdown and what the  
14 deliverables would be for work in the 16 performance  
15 measures. And it's a very thorough list.  
16

17 The two that I thought -- not I, but the team  
18 thought might be considered, and it permeates -- and  
19 I'll repeat this again. It permeates the entire  
20 program, and that is safety. Safety is a go/no-go.  
21 You're either going to be safe or not. So if you're  
22 going to be safe, then you can do all the other work.  
23 If not, either learn how to be safe or you're not going  
24 to be my contractor, or you know, you're not going to  
25 be at that site.  
26

27 We understand that, but should we monetize  
28 safety to the point of having it be a separate stand-  
29 alone measure, you know, in the performance measure.  
30 That was the first one.  
31

32 The second one is, because what we're doing  
33 in clean-up has so much to do with putting stuff in a  
34 hole in the ground, okay, should we be measuring the  
35 efficiency of our containerization, our packaging, and  
36 our transportation, okay. Because, you know, if we're  
37 not efficient at the site, then we're going to make  
38 more costs, okay, for WIPP or for Envirocare or  
39 whatever, but we're also going to use very precious  
40 space that has been dedicated for the ultimate disposal  
41 of transuranic waste and other things.  
42

43 So it's more of a conservation issue on the  
44 volumetric efficiency, and we thought that would be  
45 something that we thought would be important.  
46

47 MR. AJELLO: And that's the platform you're  
48 talking about, that things should be driven through  
49 that -- that notion?  
50

51 DR. FERRIGNO: Yeah. We thought -- we didn't

1 -- we didn't mandate, say, you must do this, okay.  
2 It's just, these are things that from our observation  
3 we're sure that a lot of thought has been put in a lot  
4 of this, okay. But as one hones and, you know,  
5 improves, and we're in a continuous improvement all the  
6 time, one may look at those two deficiencies, the  
7 efficiency and also look at the other factor.  
8

9 MR. AJELLO: Is there any other discussion or  
10 perhaps questions for Dennis's team?  
11

12 DR. FERRIGNO: Team of one.  
13

14 MR. AJELLO: Only one showed up.  
15

16 ASSISTANT SECRETARY ROBERSON: If I can make  
17 one comment. It's interesting listening to you because  
18 the things you just cited are the things that we spend  
19 70 percent of our time on. We do, and we haven't  
20 figured out how to capture it.  
21

22 MS. SALISBURY: Good job.  
23

24 MR. AJELLO: Okay. The third topic is the  
25 End States Project Team. Tom Winston is going to  
26 deliver that.  
27

28 Tom, you're up.  
29  
30

### 31 **Discussion of EMAB Project Team Report Findings**

#### 32 **End States Team**

33  
34 MR. WINSTON: Thanks, Jim.  
35  
36

37 Well, End States Project Team refers to the  
38 risk-based end state that we've discussed and Jessie's  
39 mentioned several times today.  
40

41 The three people on our team are Lorraine  
42 Anderson and Jennifer Salisbury and -- and I. The  
43 three of us represent governmental partners of DOE, and  
44 I don't know if we're reflective of the whole Board but  
45 clearly this issue has attracted a lot of interest in  
46 state government and a lot of interest in local  
47 government. So I think the three of us were already  
48 involved in this, and we've been pleased to  
49 participate.  
50

51 We also had some good support from Jim and a

1 number of staff members on the EMAB staff. Peggy,  
2 Michelle, Mary, and Mike all helped as we -- we worked  
3 primarily in the summer.  
4

5 This is one of 10 project teams. I think --  
6 and maybe it was 12, I don't know. I wasn't --  
7

8 PARTICIPANT: Ten.  
9

10 MR. WINSTON: Ten in the original project  
11 team. This is Project No. 7.  
12

13 The focus of this was to address a need for  
14 scientifically and technically sound clean-up.  
15

16 Next slide.  
17

18 I think this background statement here may  
19 have either come from CD-0 or from the Top-to-Bottom  
20 Review. I think it's reflective of both of -- both of  
21 those documents.  
22

23 And I would just have to say that -- that  
24 sort of the -- the thought behind this wasn't  
25 necessarily agreed to by some of the external partners.  
26 I think there's been a debate over whether existing  
27 clean-up decisions are risk-based or not.  
28  
29

30 But clearly, this document, you know, here it  
31 says that the goal is to change the clean-up approach  
32 from one that's based on compliance with hundreds or  
33 thousands of individual independent requirements and  
34 actions to one that's risk-based. And so, you know,  
35 that's what the focus of this is.  
36

37 It was an interactive process, which I'll  
38 talk about in a moment, but a lot of the initial  
39 pushback, especially from the regulators, was that some  
40 of this language discredited all of the good work and  
41 the good decision-making that may have occurred.  
42

43 And -- and one of the things that struck me  
44 when Jessie and I were sort of talking a little bit  
45 before about the thought of -- of risk reduction  
46 metrics is, you know, in a perfect world this would  
47 have been done 15 years ago. And what DOE is  
48 attempting to do with this project is sort of  
49 superimpose initial sort of an end state vision. And  
50 the -- and the challenge is that there's been a whole  
51 history of decision-making, and so that's where the

1 tension arises. But in a perfect world, this would  
2 have been done first.

3  
4 I think when she talks about some large sites  
5 that have been making certain individual decisions  
6 without necessarily looking at the whole, I think -- I  
7 think that sort of speaks to the progression of  
8 decision-making and the progression of pieces of  
9 information that would go into the ultimate decision.

10  
11 Our committee did a number of things. As I  
12 mentioned, Lorraine is a local government official, and  
13 she also is an officer in Energy Community Alliance.

14  
15 Jennifer is with Western Governors'  
16 Association, which there's a whole host of DOE  
17 facilities out west, and so she has access to a lot of  
18 folks.

19  
20 And I participate as cochair of the State and  
21 Tribal Government Working Group and on NGA's Federal  
22 Facilities Taskforce.

23  
24 So one of the things we did was talk to some  
25 of our other colleagues that we normally would talk to  
26 on these -- on these issues.

27  
28  
29 We also looked at a number of documents. The  
30 primary ones that we looked at were the policy, the  
31 guidance, and the implementation plan which had been  
32 called the Corporate Strategy. So that's sort of the  
33 process that we -- that we used.

34  
35 This next slide shows the general areas of  
36 concern. And I think that part of this is -- and  
37 really most of these deal with the fact that, from our  
38 perspective, it's a somewhat skeptical set of customers  
39 that are hearing this. And so the thought is, what can  
40 DOE do to enhance the receptivity and the willingness  
41 of whether it's the regulators, the community, the  
42 local governments to give these proposals and ideas a  
43 fair shake. So that's, I think, part of what we were  
44 looking at.

45  
46 We can get on to the observations and  
47 findings. The first one is that Dave Geiser did an  
48 absolute outstanding job of reaching out to that  
49 skeptical public, and that wasn't just Dave alone  
50 because I know he was meeting with Jessie and he was  
51 talking about the impact that amount of interaction

1 would have on schedule. And Jessie was interested in  
2 schedule and interaction.

3  
4 And so that interaction did occur. I think  
5 he reached out in a much greater extent than any of the  
6 other project teams. He ended up getting a huge amount  
7 of interest. He even did on the policy a  
8 responsiveness summary to the extensive comments. He  
9 somehow or other found a way within the schedule to  
10 build that into the -- into the process. He widely  
11 disseminated drafts.

12  
13 And the result is, I think, that this project  
14 is well understood by the parties, or at least much  
15 better understood than if Dave had not done that amount  
16 of outreach and interaction.

17  
18 In one instance, I just was also going to  
19 mention that Dave even let us provide him some  
20 suggestions on some factors to be included in the  
21 implementation strategy. And the list that -- that we  
22 gave him actually ended up right in the strategy. So  
23 we had a real opportunity and a -- not as a Board  
24 action but individuals offering some -- some things for  
25 Dave's consideration and the team's consideration.

26  
27  
28 This is -- the next finding is that,  
29 basically, that this is a controversial area, and  
30 because of that, we need to -- DOE needs to get  
31 meaningful input.

32  
33 The second one is that the regulators  
34 especially need to be involved, especially in  
35 determining what variances are needed. It's a complex  
36 regulatory framework, and regulators may not be experts  
37 on a lot of things but typically they are -- they are  
38 experts in knowing whether the rod needs to be changed,  
39 whether it's actually something that would need to --  
40 to get a change in law, whether it's something that's  
41 needed to just renegotiate a compliance agreement, any  
42 number of things. But clearly, in terms of what type  
43 of variance might be needed and the process that --  
44 that DOE would need to go through, the regulators do  
45 need to be involved in that.

46  
47 Risk assessment has to be credible. In order  
48 for it to be credible, in general it has to be  
49 conservative. At the same time, it has to be  
50 realistic. It also has to be transparent so that a  
51 discussion of risk has to include a lot of information,

1 such as the assumptions that went into that, which of  
2 the types of risk that we talked about or, I mentioned  
3 earlier, go into that assessment of what the risk is.  
4

5 We had an observation or finding in here  
6 about the special role of local government. And  
7 Lorraine spoke eloquently in our meetings and  
8 conference calls about the fact that in general the  
9 local government is the steward of record and probably  
10 the most important steward because they are -- you  
11 know, they're the -- the first line. And I would, in a  
12 sense, defer as a state regulator to the local  
13 government, which will have a closer presence. And  
14 because of that, they clearly have a say in future use  
15 and risk issues associated with that.  
16

17 Many of the things that we were recommending  
18 are actually in the implementation strategy. And so  
19 I'm not sure at this point that I can point to a lot of  
20 differences on what Dave has -- has -- and his team  
21 have crafted in either their guidance to the field or  
22 in the corporate strategy or implementation plan that  
23 he put together.  
24

25 From my initial feedback, it's hard to say  
26 that all of that guidance and things in the  
27 implementation strategy are being fully followed across  
28 the complex. You know, that's probably not the only  
29 area where you have situations where, you know, it's  
30 not uniformly or as aggressively being pursued as you  
31 might wish.  
32

33 We spent some time talking about the ultimate  
34 decision that DOE would need to make about whether to  
35 move forward on a proposed risk-based end state vision.  
36 If you look through all the documents, there are --  
37 the output from the risk-based end state vision is --  
38 includes a whole lot of maps. It includes a model, a  
39 conceptual model, for the site in the future. And it  
40 also includes some variances with the existing clean-up  
41 plan that is being used by all of the parties to move  
42 forward on the clean-up.  
43

44 And we began to think of the -- the kinds of  
45 factors that DOE would want to look at before DOE would  
46 make a decision about whether or not to proceed. And  
47 that -- this gets into the complexity of -- of the  
48 risk-based end state vision. You get into the quality  
49 of data, you get into the overall assessment of risk;  
50 is it increasing or decreasing with what is being  
51 proposed.

1  
2           There -- if there's a cost savings, how is  
3 that cost savings calculated, and is it a real cost  
4 savings. How much time will it take to implement on a  
5 site that is closing in 2006. It's getting relatively  
6 close to, you know, the time frame where you're running  
7 out of time to do a major shift.

8  
9           The phase of the project. The regulatory  
10 vehicle that needs to be changed. As a regulator, I  
11 know that it can take up to a year to change a record  
12 of decision with all the public involvement and  
13 participation that is needed even if everybody agreed.  
14 The people that don't agree -- you really need to take  
15 that into account.

16  
17           The -- the breadth of the document. If  
18 you're talking about renegotiating a consent decree or  
19 opening up a rod, what are some of the other issues  
20 with that rod. Do you open up Pandora's box only to  
21 find out that other issues are popping out of there  
22 that you were not necessarily ready to address.

23  
24  
25  
26           The history of the regulatory decision-  
27 making. The impacts of the change long-term  
28 stewardship.

29  
30           So these are just some of the examples of the  
31 kinds of things that would need to be considered and --  
32 and basically the feedback that DOE obtained during the  
33 discussion of this, the public discussion and  
34 discussion with the regulator.

35  
36           The final observation or finding is -- is  
37 that despite the outreach that -- that Dave Geiser did,  
38 which was heroic in nature, given the timeline, there's  
39 still a lot of skepticism and a lack of trust. It's  
40 not a very fertile ground. And I'm sure you've been  
41 hearing from folks who are, you know, scratching their  
42 head or are skeptical as to where DOE is -- is headed.

43  
44           And we talked about what some of the things  
45 DOE -- DOE could do to improve the receptivity of the  
46 regulators, the community, the local governments. In  
47 general, the more involvement, the better in the  
48 parameters of the evaluation, in the process, and in  
49 discussion of the pros and cons. The second one is the  
50 way in which it's presented.

51

1 Jim Bridgman had included in our background  
2 information a whole host of articles, and one of them  
3 in there -- I don't really want to spend any time on it  
4 -- but it was on Fernald and the, I guess, release or  
5 discussion of -- of a tentative proposal or an  
6 evaluation.  
7

8 And then, Jessie and I have talked about  
9 that, and Jessie was candid with me that DOE could have  
10 done a much better job in the way in which it was  
11 presented to enhance the -- the chance that it would  
12 get a fair hearing and a fair shake by the decision-  
13 makers and those that would weigh in on it.  
14

15 And then the last area we talked about, and  
16 we don't really have anything specific at this point,  
17 but one of the things we talked about is that, what  
18 kind of incentives can be built in to improve the  
19 receptivity. You almost hate to mention incentives  
20 because it sounds like it's some sort of a tradeoff or  
21 shady deal, but the fact is, the public, the  
22 regulators, local government often are dealing with the  
23 Department on a variety of issues, whether it's, you  
24 know, local initiatives in terms of reuse, whether it's  
25 natural resources issues that -- you know, working  
26 through a settlement situation, any number of things.  
27

28 And I think, as -- as the committee looked at  
29 this, DOE is, you know, coming forth with a lot of  
30 information to an audience that says, I've got a clean-  
31 up plan and I've got a path forward, you know. What's  
32 in it for me to change. DOE would say, well, there's  
33 potential cost savings, there's potential, you know,  
34 changes in the risk profile, or whatever.  
35

36 One of the things we talked about is, is  
37 there an opportunity for building into the breadth of  
38 the discussion some other issues that might be  
39 important to the public, that might be important to the  
40 regulators that are outside of the narrow realm of the  
41 risk-based entity.  
42

43 We didn't get real far with that because we  
44 -- we weren't sure how far we wanted to get with  
45 that, but I think part of that was just reflective of  
46 the fact that we see a real tough uphill battle for  
47 DOE. We're looking at ways in which the receptivity  
48 and the willingness of the audience to -- to work with  
49 DOE on this issue can be -- can be enhanced.  
50

51 So with that, I think the -- the last

1 conclusion is kind of an overall summary. I don't know  
2 if, Jennifer or Lorraine, you have anything you want to  
3 add to -- to this.

4  
5 So with that, that's as -- that's as far as  
6 we took this. It's -- it's -- from a timing  
7 standpoint, the risk-based end states guidance had  
8 called for the sites to have completed their work by  
9 the end of October. A number of sites got extensions.  
10 Part of that was that the guidance really didn't get  
11 finalized until about the middle of September, even  
12 though the sites had seen the guidance.

13  
14 So this is a work in progress at this point.  
15 The sites are coming up with their end states vision.  
16 They're working with headquarters, and they are trying  
17 to go through the public discussion and debate at the  
18 local level. And it's -- it's gotten a lot of interest  
19 and attention.

20  
21 MR. AJELLO: Okay. Good. Thanks very much.

22  
23  
24 This is one of the most difficult areas -- let's  
25 acknowledge that -- because of all the various  
26 interests and different conditions that exist at the  
27 sites, legal and otherwise.

28  
29 So I did have a couple of questions, Tom.  
30 Maybe we can chat about it a little bit. One of your  
31 comments was that the local government should have the  
32 opportunity to be at the table. What -- and be at the  
33 table and closer. What does that mean specifically?  
34 How did you envision that occurring? Is there a model  
35 for that or an example?

36  
37 MR. WINSTON: Well, I think part of that --  
38 I'm probably going to defer to -- to Lorraine because  
39 she -- she's been at the table. But I think the  
40 thought was, is that there has to be a recognition that  
41 local government is in the driver's seat on a good  
42 array of -- of local decisions that impact the site,  
43 whether that's land use or a variety of -- of tools  
44 that they are using.

45  
46 And so at any point where there was actually  
47 a decision to be made, if local government wasn't in  
48 the room during those discussions, it had a variable  
49 chance of sort of getting resolved. I think that was  
50 probably a -- a caution to regulators as well that  
51 local governments are key partners in -- in any --

1 anything that's going to stick in the long term.  
2  
3 Do you want to say a little bit more about  
4 that?  
5  
6 MS. ANDERSON: Sure. Thank you, Tom.  
7  
8 I think I've explained it as local government  
9 was there before DOE and when DOE packs up and leaves,  
10 local government will still be there. And we have a  
11 duty and a responsibility and we -- and we've taken  
12 oaths of office that say we will protect the health,  
13 safety, and welfare of our citizens. So we want to be  
14 there when -- when we're starting to discuss what --  
15 what the end state will be.  
16  
17 We are the keepers of the land use plans for  
18 our cities and -- and our counties, and so we want to  
19 be there. We don't want to have decisions made about  
20 our future in a vacuum. And I -- I think that's what I  
21 mean "being at the table."  
22  
23 The regulators have their job certainly, a  
24 legal job, to regulate the clean-up and -- but as local  
25 governments, we still feel that -- that we should be at  
26 the table while decisions are being made about our  
27 future.  
28  
29 MR. WINSTON: One of the reasons we don't  
30 really have a model is that some sites really have very  
31 little local government activity or involvement and --  
32 and then other sites -- at Mound, for example, local  
33 government is doing the lion's share of the local  
34 input. At Fernald, it's much, much less in terms of  
35 actual elected officials.  
36  
37 MR. AJELLO: So there's no one approach, in  
38 other words.  
39  
40 MR. WINSTON: There really can't be one  
41 approach, and that's why we talk about an opportunity  
42 to be at the table. Most local governments will want  
43 to be there, get there early, stay late.  
44  
45 (Laughter)  
46  
47 MR. AJELLO: I guess that goes also with --  
48 another quote from the report was, "achieving  
49 meaningful input." This is going to --  
50  
51 MS. ANDERSON: Yes.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

MR. AJELLO: -- differ from location.

MR. WINSTON: And I think one of the concerns, one of the things I've been hearing from some folks is that -- and I talked a little bit about it this morning, or referred to it, is DOE is moving more quickly. There's a real concern that DOE might go back to an earlier day of -- of the site announcement. And I know that's not Jessie's intention at all, and -- and in fact, if you look at the guidance, there's an expectation that's -- that the discussions be very early interactive and very early. It's not necessarily happening, and part of that is the -- is a pretty aggressive schedule on developing the RBS -- RBES vision statements.

But I think there is a thought that meaningful means interactive, collaboratively, and not only just talking but listening.

MR. AJELLO: I've got to remember that. That bad side announcement.

Okay. Other questions or comments?

ASSISTANT SECRETARY ROBERSON: Can I comment?

MR. AJELLO: Yes.

ASSISTANT SECRETARY ROBERSON: I'm going to have to step out, but I, first of all, I'd say we clearly have an opportunity to act upon recommendations from the EMAB on this topic.

It's -- it's -- you will probably walk away shaking your head, but when we -- when we proposed this project, we spent quite a bit of time discussing whether we organized a team to swoop in and get this information for us -- because the first thing we want is to understand -- or do we force it out through the organization and the partnerships so that it's meaningful for everybody.

And so we choose the most painful approach that we could.

(Laughter)

ASSISTANT SECRETARY ROBERSON: And I will be honest with you, less important to me than getting a

1 piece of paper is the thought process and the  
2 collaboration that went into it.

3  
4 Based on my most recent knowledge of what  
5 we're seeing, we're probably going to reject most the  
6 documents we got because -- and it's not because of any  
7 pullback or constraint by the regulators or community  
8 leaders. Our own folks are very protective, too.

9  
10 And what we're after is the thought process  
11 and understanding because if we don't, then we  
12 certainly can't help anybody else understand.

13  
14 So there -- this is as much a training  
15 exercise that's producing a piece of paper. The intent  
16 is for it to be meaningful. So this process is far  
17 from over.

18  
19 MR. WINSTON: It's a tough project. It  
20 really is a tough one.

21 MS. SALISBURY: One comment before you leave,  
22 Jessie. My thinking, and I think you just said it very  
23 well, is to be reality-based because the work you do up  
24 front, the time you take up front will pay off big  
25 time, I think, at the end. So it sounds like you're  
26 doing that, and I applaud you.

27  
28 MR. WINSTON: And it sounds like there's a  
29 fragmentism there that's reflective of the complexity  
30 of the situations. One of the things we're working on.

31  
32 MR. AJELLO: Okay. Thanks, Jessie.

33  
34 And thanks to the group who did this report.  
35 Well done.

36  
37 **Board Business**

38  
39 Approval of Recommendations to the Assistant Secretary

40  
41 MR. AJELLO: We're at that point in the  
42 meeting, not exactly at the time in the meeting, but  
43 we're at that point --

44  
45 (Laughter)

46  
47 MR. AJELLO: -- in the meeting whereby we  
48 need to come to a decision with respect to these  
49 reports, adopt them and engender any further discussion  
50 we have. So let me just tell you about a procedure  
51 that I'll follow to give you a line of sight about how

1 we get there.  
2  
3 First I'll ask for a motion to approve the  
4 recommendations and a second, of course. That would  
5 put the recommendations on the table for discussion.  
6 Once we have that recommendation on the table, we'll  
7 entertain any -- any proposals for modifications based  
8 on the work that we've heard.

9  
10 Once we complete that discussion, we'll ask  
11 for any public comment there may be on that motion.  
12 Then we'll call for a vote.

13  
14 What we're talking about here is in your  
15 books at Tab 7. That's the report that is a more  
16 detailed version of what we've heard today, our three  
17 -- three summaries of these reports in slide form.  
18 We're actually talking about the report that's  
19 contained in your -- in your booklets.

20 So that's the approach that we'll use.  
21 Normal procedure, I might add.

22  
23 So first I'll entertain that -- that motion  
24 to approve the recommendations and a second, and then  
25 we'll start that discussion.

26  
27 MS. ANDERSON: I would so move.

28  
29 MR. SWINDLE: Second.

30  
31 MR. AJELLO: Okay. Motion approve -- made  
32 and seconded.

33  
34 (Laughter)

35  
36 MR. AJELLO: I'm not jumping the gun.

37  
38 So let's open the discussion to entertain any  
39 -- any of the -- any comments or any modifications that  
40 we might want to see. And I'll allow as how that we  
41 can certainly do as we choose. We can adopt this as it  
42 is, as it's been written, or we can make modifications  
43 and then -- then, you know, subject to those  
44 modifications, go forward.

45  
46 Tom.

47  
48 MR. WINSTON: I just -- I have a process  
49 question on this. I know we had some feedback probably  
50 from Jessie to you that it would be helpful to have  
51 some more sort of how to implement.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

MR. AJELLO: Right, right.

MR. WINSTON: The thought is, is that that -- that could occur after -- that discussion could occur afterwards. We're not going to lose that -- that --

MR. AJELLO: Absolutely not. Yeah. Let me clarify and suggest a way. And of course, the Board should come to a conclusion about this.

I had envisioned, and I had talked to her about, adopting the report and -- or subject to modifications that we might consider, No. 1.

No. 2, put us on the hook, if you will, to do the how-to's because we're very interested in -- in making this, as you said, actionable. So the actionable with the how-to's, Tom, don't need to be in the report per se. This could be a follow-up.

And some of you -- really, all of you have done a very good job of -- of listing those. And I think work around that could be as simple as documenting some of these things in one spot. And I've made a list of those as I've listened to everyone speak today. So I don't think this should hold us up at all.

MR. WINSTON: Thank you.

MR. SWINDLE: Jim, just adding to that, having reviewed the -- the draft report, clearly in its present state, from my perspective, it's sufficient to go forward to -- you know, as a summary of what -- the work that's been performed. The key is that connectivity to move it into the next step, and as long as that condition is understood, which it is as you said given those actionable results, I'm for moving forward.

MR. AJELLO: Okay. Other thoughts or discussions on any of the points of the reports?

(No response)

**Public Comment Period**

MR. AJELLO: Okay. Is there any other comment that anyone in the room would like to make with respect to discussions that go back from this morning, whether it be contracts, metrics, or end states, that

1 you've heard? We'll accept any thoughts.  
2  
3 Yes, sir.  
4  
5 MR. BRIDGMAN: I -- I'm Jim Bridgman with the  
6 Alliance for Nuclear Accountability. And we've been  
7 trying to inform you by sending you some articles of  
8 things going around the complex. I hope those were  
9 worthwhile.  
10  
11 Our network is still grappling with the  
12 constellation of new initiatives that the Department of  
13 Energy has initiated. And we are not there yet, but I  
14 will offer a few observations and notes specifically on  
15 the risk-based end states project.  
16  
17  
18 I appreciated what Tom said about Dave Geiser  
19 reaching out. He's probably one of the few officials  
20 in DOE that I get a callback from on the same day, much  
21 less at all.  
22  
23 However, I think we're in a -- in a situation  
24 where things are moving so rapidly that the opportunity  
25 to digest and comment is restricted. The RBES Vision  
26 documents from the sites were due October 31st, and I  
27 think most of them are still in the works. There's a  
28 few that have -- that are out there. Fernald already  
29 had a comment -- public hearing. However, most of  
30 these are still in the works or still coming out. And  
31 there is this January 30th deadline to have a final.  
32 So you see over the holiday season it makes it hard to  
33 get the documents, digest them, and comment on them.  
34  
35 I would urge headquarters to -- to make those  
36 documents available on the website. Actually, I  
37 believe I had a commitment from Assistant Secretary  
38 Roberson to do that in a meeting that I had with her  
39 about two weeks ago. But when I spoke to Dave Geiser  
40 yesterday, he still hadn't heard that.  
41  
42 So I'm hoping that -- you know, he said,  
43 well, some of these are on the site websites, but it's  
44 hard to track down and look at these from a national  
45 perspective unless they're on headquarters, and I would  
46 urge those to be so.  
47  
48 Okay. I think you heard Tom issue some  
49 concerns about RBES. I think there -- there is a big  
50 perception that this in -- in large part is a way to  
51 walk away from prior commitments, to accelerate clean-

1 up by doing less of it. The Fernald example of the  
2 groundwater treatment was a -- was a good example of  
3 that. The lawsuit over high-level waste is another  
4 good example of that. So there is a lot of -- a lot of  
5 concerns there.

6  
7 I think also there's ongoing confusion about  
8 how RBES is integrated into the other processes. We  
9 already have a process where letters of intent were  
10 issued, followed by performance management plans with  
11 project management plans to follow. And then RBES is,  
12 you know, looking at the end states that will feed into  
13 this, but it's not clear how that will do and what --  
14 what the schedules are for that.

15  
16  
17 At the same time, there is an immense  
18 restructuring within the Department of Energy that  
19 makes grappling with all -- with all this all the much  
20 harder. You've got EM, you've got the Office of Legacy  
21 Management being set up, and you've got some remaining  
22 fuzzy delineation of responsibilities between EM,  
23 Nuclear Energy, NNSA, and the Office of Science. And in  
24 fact, Congress spoke to this issue in the defense  
25 authorization, requiring DOE to look at how NNSA versus  
26 EM are going to divvy up responsibilities for some of  
27 these sites.

28  
29 And at the same time, the -- the budget  
30 structure was changed, and you know, I had to -- to do,  
31 you know, additional calculation to understand exactly  
32 where we were with the budget going from the structure  
33 of three accounts down to the two, the Defense  
34 Environmental Acceleration and the Defense  
35 Environmental Services.

36  
37 So there is a number of ongoing concerns.  
38 These are just a few that we're starting to put  
39 together, and we hope to be able to -- to deliver a  
40 letter to Jessie Roberson shortly that outlines a few  
41 more of these concerns. And we hope to also be able to  
42 respond site by site to division documents that come  
43 out. But I just wanted to give you a heads up on some,  
44 you know, some of these that you'll hear from -- from  
45 us about again.

46  
47 Thank you.

48  
49 MR. AJELLO: Okay. First of all, thanks very  
50 much. We -- we did receive your correspondence, as Tom  
51 said, well in advance of the meeting, so we had a

1 chance to look at it. So we appreciate that.  
2  
3 And if anybody, including your organization,  
4 wants to continue to communicate through Jim Melillo's  
5 office, we'd appreciate that. That's great.  
6  
7 I think what my own view is, a number of the  
8 things that you said gives us some grist for those  
9 actionable items that we're going to discuss and  
10 document. So that's very helpful.  
11  
12 Any thoughts or comments?  
13  
14 MR. WINSTON: I was just going to say that  
15 one of my comments was that there was a lot of intense  
16 interest out there, and thanks, Jim, for proving that  
17 point. There is a lot of interest from folks in a lot  
18 of quarters.  
19  
20 And I think it does underscore one of our  
21 recommendations, which was for adequate and meaningful  
22 involvement and, clearly, access to information and --  
23 and open discussion as part of that. I think it  
24 underscores something that the committee was interested  
25 in achieving as well.  
26  
27 MR. AJELLO: Other comments or discussion?  
28 Sir?  
29  
30 MR. GRIBEN: Mitch Griben with the Science  
31 and Technology Consulting Group. In the acquisition  
32 situation, a very good report. You're all on a topic  
33 that I thought had been beaten to death, but obviously  
34 you guys --  
35  
36 PARTICIPANT: We can still beat it.  
37  
38 MR. GRIBEN: -- brought some new insights.  
39  
40 Based on, you know, your report as well as  
41 what Frank Sheppard said today, I think there are a  
42 couple of things from a small business perspective that  
43 need to be looked at in some more detail. The most  
44 significant one is the complexity of the request for  
45 proposals that are coming out.  
46  
47 I've had the pleasure of being able to work  
48 on this latest IDIQ, and you know, for those of us that  
49 are in the business and have done this sort of work  
50 before, it's not a big deal. You know, whether you've  
51 done it for DOD or DOE, it's very similar.

1  
2 But this particular one, and I think the  
3 objective of the Department, was to get small  
4 businesses to get into just doing the clean D & D work.  
5 Well, firms that are going to do that and come into  
6 this business area are used to putting together  
7 basically a firm fixed price bid package to do that  
8 kind of work. In order for them to play on this IDIQ,  
9 they had to have a very sophisticated, you know,  
10 financial system as well as a real keen understanding  
11 of what it took to put together this -- this proposal.  
12

13 I'm going to daresay that, you know, on the  
14 clean D & D side, there wasn't that much in there, but  
15 to get some -- but just to play, I want to say the  
16 typical firm is going to have to spend at least \$100-,  
17 if not \$200,000, to put the proposal together. So  
18 that's something to be looked at, I think, for the  
19 Department, that if they're really interested in  
20 bringing in a new gene pool for some of these discreet  
21 work packages that can be done by non-traditional  
22 DOE'ers, they need to look at the package that goes out  
23 asking for bids.  
24

25 I'm also going to say on the latest wave of  
26 small business opportunities coming out, there's -- and  
27 I think, you know, just because it's so new there can  
28 be some misstatements made. But they cost people,  
29 especially small businesses, money. The understanding  
30 on the IDIQ coming out of the Nashville meeting was  
31 that it was going to come out as a draft RFP and then a  
32 final RFP. Well, first thing we know, it comes out as  
33 a final RFP.  
34

35 Today, for the first time, we were led to  
36 believe that Portsmouth and Paducah, the infrastructure  
37 as well as the ER, was going to come out as small  
38 business alone, restricted to small businesses. Today  
39 -- and that's been bandied out from the Department.  
40 Now, today for the first time I have heard that it's  
41 now potentially going to have a large business  
42 component on the ER side.  
43

44 So the confusion, to try to get new players  
45 in, is -- is really difficult, and I hope, you know,  
46 the acquisition strategy that Frank talked about as  
47 well as your comments on the contracting process will  
48 acknowledge that.  
49

50 Thanks.  
51

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

MR. AJELLO: Okay.

MR. SWINDLE: One thing which I think, clearly, if I go down, there's consistency, follow through with what you say you're going to do, and before you communicate it out, be sure of what you want to do. Is that fair?

MR. GRIBEN: And everybody's on the same page in the organization.

MR. AJELLO: And I heard something else on this topic and confirm if I did hear it right. I'll expand your comment a little bit.

Probably evaluate these bidding requirements from the perspective of the small business respondent to try to assess the costs associated with responding and -- and put that perspective into the -- the RFP before it goes out because apparently the costs to respond are a factor and may in fact cause you not to play or increase your expense. And of course, the award may be elsewhere.

MR. GRIBEN: My fear on this IDIQ is that some firms are going to come out and bid this not knowing how to bid, and I think you look at Q & As that came in. They were very much from some naive bidders. My fear is that these guys are going to spend a lot of money, put in an -- a proposal that doesn't even make the first cut because it's not compliant. It's going to be a heartbreak there.

MR. SWINDLE: Just adding, I think -- which I think is relative to what we're in the open discussion on here, Jim, relative to our report, is I think what we laid out in the -- our series of recommendations, what Mitch is adding to this to, you know, show there is a series of follow-on, clear -- we've got to drill down much further to understand.

I mean, as an example, the confusion I've heard on the IDIQ is, there's not a real clear picture in terms if you win one of these, what have you really won, okay. For example, now you've got this IDIQ. You've invested a couple hundred thousand dollars. What's your return? There's no guaranteed minimum of a performance, okay. And so -- or a dollar value so that there is at least some metric from which a business

1 decision can be made of, if I never get a bit of work  
2 from a competitive standpoint -- and that's the other  
3 issue. Most IDIQs give you the opportunity to spend  
4 more money to compete in just a smaller pool.  
5

6 And I think from a small business -- and  
7 again, it's not that it's wrong, it's just recognizing  
8 that for a small business, they've got to see the whole  
9 life cycle. Again, I think I'm paraphrasing a little  
10 bit of what I think I'm hearing you saying, Mitch.  
11

12  
13 So that, it's all transparent, okay. Once  
14 this investment is made by a small business -- and that  
15 may be some small business's total B & P pool for the  
16 full year, all right. Then, once they make that  
17 commitment, they're locked in, not realizing what  
18 they've locked themselves into. Fair?  
19

20 DR. FERRIGNO: I'd like to make a comment.  
21 First of all, for the record, Dave, I don't mean to  
22 correct you, but the proposal on the IDIQ has a \$15,000  
23 minimum, okay.  
24

25 (Laughter)

26  
27 DR. FERRIGNO: I mean, we need --

28  
29 MR. SWINDLE: I understand.

30  
31 DR. FERRIGNO: -- to correct -

32  
33 MR. SWINDLE: Okay.

34  
35 DR. FERRIGNO: -- to the exact point.  
36

37 The other thing is, maybe, for the Board. I  
38 did not, when I read the IDIQ procurement proposal --  
39 which is on the web. It's public information -- see  
40 where it restricted any small business to just the non-  
41 contaminated material facilities, you know, clean-up,  
42 the D & D. The small businesses were perfectly able to  
43 take care of the environmental restoration side of the  
44 contract, which would include groundwater, waste  
45 management, monitoring wells, and remediation as well  
46 as, if they had core competency, to perform the  
47 deactivation, decommissioning, and remediation and  
48 waste management services.  
49

50 So they had three contract line items for  
51 CLINs, we call them, 1, 2, and 3. So the one was ER;

1 two is the nuclear decontamination, deactivation,  
2 decommissioning; and the third was the non-nuclear  
3 demolition, the commercial work.  
4

5 With regards to that procurement or that RFP,  
6 I would agree that it was a little complex. And to  
7 feel through that is probably going to be a learning  
8 experience on the IDIQ. I mean, 14 awards are going to  
9 be made. It's not -- I think there ferreting through  
10 the process on how do they use -- this is a new tool  
11 for DOE. How do they use an IDIQ. I mean, we have  
12 other agencies, like Department of Defense, Air Force,  
13 Corps of Engineers, that have been doing this for quite  
14 a few years.  
15

16 And it's my further understanding in speaking  
17 to some of the DOE folks that they actually went out to  
18 the various sites of Air Force Center of Excellence,  
19 Corps of Engineers Omaha, and places like that to try  
20 and glean expertise and knowledge and reflect some of  
21 that lessons learned.  
22

23 However, it's new for this agency, and I  
24 guess there's no guarantees in life. And it's really a  
25 competitive situation on whether somebody wants to  
26 respond or not.  
27

28 We're told from the meetings that were at the  
29 East Tennessee Small Business Conference -- one of the  
30 DOE folks was talking. I forget who it was or else I'd  
31 say -- that they're anticipating quite a lot of  
32 responses on this IDIQ. So I guess time will tell. I  
33 think it's what? December is when -- December 1st when  
34 it's done.  
35

36 I don't want to be correcting all of this  
37 stuff, but I just did want to just share some of at  
38 least my knowledge of understanding of that.  
39

40 Thank you.

41 MR. SWINDLE: Perhaps I misspoke. I was not  
42 implying that small businesses could only participate  
43 on a non-contaminated D & D. My point is that in order  
44 to participate -- only want to participate on that  
45 particular line item, you still have to respond with  
46 the same proposal in terms of complexity and order of  
47 magnitude that you did when you were playing on any  
48 line item.  
49

50 DR. FERRIGNO: I agree.  
51

1 MR. SWINDLE: That's my point.  
2  
3 DR. FERRIGNO: Okay.  
4  
5 MR. SWINDLE: Thank you.  
6  
7 MR. AJELLO: Thanks.  
8  
9 Jennifer.  
10  
11 MS. SALISBURY: Yeah. Maybe between Jim and  
12 -- and Dave we got to this, and I -- as a Board, I'd be  
13 interested in knowing if there are any actionable items  
14 from Mitch's comments and also from Jim? Is that your  
15 name? Your comments on the end state. And maybe you  
16 can make sure when we get to that part of the  
17 discussion if there's something else that should be  
18 added as an actionable item. Because I think both of  
19 you have raised very good points that ought to be  
20 picked up somehow by the Board.  
21  
22 MR. AJELLO: I have tried to make some notes,  
23 but once we turn this tab, if we would, to -- to that  
24 session, I want to make sure that we've -- we've  
25 documented those and we walk away with that.  
26  
27 David.  
28  
29 MR. SWINDLE: I think that what Jennifer just  
30 said is a good point. I wouldn't change the existing  
31 report because that's reflecting work today, but to go  
32 forward as an example in Mitch's area, I do think that  
33 it would be worthwhile from an element of review that  
34 we as a Board look -- or as the committee looking at  
35 contracts look at those minimum set of requirements,  
36 for example, that should be in an IDIQ or the various  
37 contract types.  
38  
39 I think that, Mitch, gets to your point, is  
40 that, you know, we end up with a series of complexities  
41 when very often most of this is stuff that's added in.  
42 It's not necessarily required to get a compliance  
43 proposal. And again, part of that is just coming up  
44 with it.  
45  
46 MR. AJELLO: Other thoughts or comments?  
47  
48 (No response)  
49  
50 MR. AJELLO: As I said, we -- we will move to  
51 a discussion next of these actionable items. It's

1 connected, but I think Dave said it best. We want to  
2 come to a conclusion about the report that was  
3 submitted and have this discussion.  
4

5 So is there a recommendation and  
6 recommendations to -- to accept the report as  
7 established?  
8  
9

10 MS. SALISBURY: I would call the question,  
11 Mr. Chairman.  
12

13 MR. AJELLO: And -  
14

15 (Pause)  
16

17 PARTICIPANT: There's already a motion and a  
18 second. We're ready to go.  
19

20 MS. SALISBURY: We're ready to vote.  
21

22 MR. AJELLO: Okay.  
23

24 MR. SWINDLE: End discussion.  
25

26 MR. AJELLO: All those in favor of submitting  
27 the report at is -- as is, say "aye."  
28

29 (There was a chorus of "ayes.")  
30

31 MR. AJELLO: Okay. The report has been -  
32

33 PARTICIPANT: Unanimous.  
34

35 MR. AJELLO: -- unanimously approved.  
36

### 37 **Board Discussion**

#### 38 **Making the Board Report Recommendations "Actionable"**

39 MR. AJELLO: The next item on the agenda is  
40 to talk about the very thing that we've been itching to  
41 talk about, which is to discuss how to make these  
42 report recommendations actionable.  
43  
44

45 And I think you've heard a number of times  
46 today this -- there's a keen interest in doing that,  
47 and so I'd like to -- to go back in order and then  
48 document. Of course, this is being recorded, so we'll  
49 have that convenience and be able to look at the items  
50 that we're able to document as to our discussion.  
51

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

Let's -- let's take the contracts one first and go back through that and discuss items that would make it actionable. My intent here is not to wordsmith this but basically get some concepts out on the table. They'll be documented, and we can rework those individually as a draft and then get them into the program accordingly. So let's talk about contracts, first.

MR. EVANS: Mr. Chairman, what we're trying to do is capture the ones -

MR. AJELLO: Yeah.

MR. EVANS: (Off mike)

MR. AJELLO: Okay. Who'd like to begin?  
(Pause)

MR. AJELLO: Okay. Dave, why don't you start?

MR. SWINDLE: I guess as a point of clarification, I'll go back. We've captured some of our, I guess, extractions from our report, okay, which is, for our purposes, behind Tab 8.

MR. AJELLO: Right.

MR. SWINDLE: Okay. Clearly, one of the recommendations we had identified dealt with gathering information on contracting and fee incentive models from not just the environmental and not just the DOE environmental side of business.

PARTICIPANT: No. 5, Recommendation No. 5.

MR. SWINDLE: No. 5, correct.

So we can quantify, look at the type of evaluation criteria, and then assess the different types of approaches so that we can look at the advantages and disadvantages.

MR. AJELLO: So the action item there would be to look at other fee incentive models.

MR. SWINDLE: That is correct.

1 MR. AJELLO: And then to evaluate the  
2 different approaches and recommend them accordingly to  
3 the program. Okay.  
4

5 MR. SWINDLE: A second area that we had  
6 addressed in the Contract Team was to further  
7 investigate those conditions and/or restraints, for  
8 example, that keep further large contracting firms from  
9 entering the DOE market.  
10

11 PARTICIPANT: What number?  
12

13 MR. SWINDLE: I'm sorry. Recommendation No.  
14 6. That's cited here as our extraction.  
15

16 And in particular, this looks at, you know,  
17 how DOE is using its actual DOE bidding process and the  
18 liability requirements, how they impact other entities  
19 from joining the bidding process.  
20

21 And then, a third area which is cited is  
22 Recommendation No. 9 that came out of our working  
23 papers. And that's to review the bonding requirements.  
24

25 And just to point out again that since DOE is  
26 moving more and more from assessments and evaluations  
27 to the actual clean-up, construction, remediation,  
28 bonding is becoming more of a requirement, which is  
29 also counterintuitive in terms of the capabilities of  
30 smaller businesses, too, in some cases for some of  
31 these larger programs. So we clearly need to review  
32 that requirement and we can ensure some expert  
33 assistance can be provided.  
34

35 Dennis, do you want to pick up on some of the  
36

37 (Pause)  
38

39 MR. AJELLO: Actually, let's stay with the  
40 Contracts Team.  
41

42 MR. SWINDLE: Okay. Let me go ahead and  
43 finish.  
44

45 MR. AJELLO: Wrap up those because I think  
46 we've got a couple more. And I think I've picked up  
47 some additional things -  
48

49 MR. SWINDLE: Okay.  
50

51 MR. AJELLO: -- today which we might want to

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

add in.

MS. ANDERSON: Jim.

MR. SWINDLE: What we refer to as Recommendation No. 8 here is to look at expanding the range of contract vehicles that DOE has that more closely matches the risk versus reward or incentivization. We heard a lot of discussion on incentivization today.

And then the final two that we had, again, extracted from our presentation, which is to look at specific contracts incentives which is -- referred as Recommendation 12. Or performance that would flow down not only from the prime contractor but also to those supporting, second and lower-tier subs as may be appropriate. And our report goes into more details upon what those would be.

And then finally, given DOE's emphasis on small business and the objectives that are being achieved, as we had cited what's referred to as Recommendation 14, to identify -- including initiatives or again incentives for larger firms to want to bring small businesses into the fold but also looking at invigorating and/or moving out from DOE EM a small business mentor-protége program.

And that's all we have.

MR. AJELLO: Good. Yeah, from the previous report.

I had made a couple of notes that I thought arguably are going to sound a little less specific than this, but things I heard today that I thought came out of the discussion.

One is that this whole notion of a professional track inside of DOE focusing on contracts as -- as a -- as an expertise area might be further embellished, given the enormity of the -- of the programs' activities through contracts. And -

MR. EVANS: I'm sorry. I was turning the page -

MR. AJELLO: Yeah. I'll try it again.

One of the things that I -- I focused on today was the importance of contracting function and

1 how that might be embellished as a professional track  
2 in order to promote the cross-learnings and lessons  
3 learned that -- that have occurred in various of these  
4 procurements.

5  
6 In other words, the organizational set-up  
7 that Jessie has -- has begun with -- with Frank  
8 Sheppard and -- who was the -- Norm Sandlin, is one  
9 that might be focused on and expanded, even.

10  
11 MS. ANDERSON: Jim, does that relate  
12 specifically to the SEBs?

13  
14 MR. AJELLO: Yes, right.

15  
16 MS. ANDERSON: You might put that down.

17  
18 MR. AJELLO: Yeah. That's a good point.

19  
20 MS. SALISBURY: Yeah, because that's where  
21 I'd see that there needs to be core competencies and  
22 professionalism developed if it really isn't actually  
23 thought as part of your job that you get stuck doing an  
24 SEB.

25  
26 MR. AJELLO: And the other -

27  
28 MS. SALISBURY: It's so important.

29  
30 MR. AJELLO: The other thing is that I think  
31 this area should relate to Jessie's human capital  
32 strategy as she tries to improve skills around the  
33 organization. This is one of those important skills  
34 that needs to be focused on as she -- as she deploys  
35 that human capital strategy.

36  
37 I think -- the only other one that I don't  
38 think our report captured, but we heard it a few times  
39 today, was predictability in the contracting process.  
40 A program should do what it says it's going to do and  
41 have very few surprises with respect to the RFPs it  
42 puts out, timing the RFPs.

43  
44 We've heard about how expensive this is, how  
45 complex it is, and with a lack of predictability, the  
46 process becomes even more difficult.

47  
48 So I think there is probably something to be  
49 said for needing to change plans every once in a while  
50 because we're dealing with terribly complex matters.  
51 But I've heard from a number of sources both today and

1 else -- other times that the program hasn't been all  
2 that predictable with respect to when it issues RFPs,  
3 what it's going to cover, and the like.  
4

5 So predictability in the process is -- is  
6 pretty important.  
7

8 MR. SWINDLE: I think in that same vein, and  
9 I think it ties in these areas, that it's worthwhile  
10 for the committee to look at what I characterize as  
11 processes associated with a four-phase procurement  
12 cycle, which does include such things as consistency,  
13 content, process, and -- the statement of work, RFP  
14 development phase, the competitive phase, decision  
15 phase, and then the implementation.  
16

17 MR. EVANS: (Off mike)  
18

19 MR. SWINDLE: No. 1 was the RFP development  
20 phase. No. 2 was the -- essentially the solicitation  
21 or competitive phase. No. 3 is the decision or source  
22 selection phase. Third -- the fourth is  
23 implementation.  
24

25 MR. EVANS: I apologize for my hearing.  
26

27 MR. AJELLO: Okay. Have we captured the  
28 actionable items, the take-aways from the Contracts  
29 Section? Are there any others that we might have?  
30

31 MR. SWINDLE: And this does get Mitch  
32 Griben's -  
33

34 MR. AJELLO: Yes.  
35

36 MR. SWINDLE: -- remarks as well in those  
37 phases and I think address that whole -  
38

39 MS. ANDERSON: Could I -- could I ask, Dave,  
40 if your competitive phase means DOE being competitive  
41 in the job -- in the contract market?  
42

43 MR. SWINDLE: It's -- that's the period where  
44 once the RFP has been issued -  
45

46 MS. ANDERSON: Right.  
47

48 MR. SWINDLE: -- the competitors or the  
49 contractors are making the evaluation of the bid, et  
50 cetera. It's that period.  
51

1 MS. ANDERSON: Okay. I guess I was -- I was  
2 concerned that DOE is not competitive in their fee  
3 structure.  
4 MR. SWINDLE: And that's part during the  
5 first phase of developing the RFP. That's where I  
6 would -- normally, that would be addressed during the  
7 development. It looks through the interaction with the  
8 industry of what takes and, you know, looking at the  
9 risk versus reward parameter.  
10  
11 MR. AJELLO: This should pick up this notion  
12 of being a little bit more bold.  
13  
14 MR. SWINDLE: Exactly.  
15  
16 MR. AJELLO: Extending the fee parameters out  
17 a little bit more. I think that's what your -  
18  
19 MR. SWINDLE: That has to be there.  
20  
21 MR. AJELLO: -- has captured.  
22  
23 MR. SWINDLE: Otherwise, there's not a basis  
24 for the bid to proceed from a company to make a  
25 decision.  
26  
27 MS. ANDERSON: Right.  
28  
29 MR. SWINDLE: It has to occur before they can  
30  
31 MS. ANDERSON: We want the A Teams instead of  
32 the B Teams.  
33  
34 MR. SWINDLE: Correct.  
35  
36 MR. AJELLO: Right.  
37  
38 MR. SWINDLE: That captures all of it.  
39  
40 MR. AJELLO: I think that's a pretty good  
41 review of the Contracts take-aways.  
42  
43 Let's go to Metrics, and maybe, Dennis, you  
44 could help us through those. We've got a number of  
45 those documented as well, and you had a specific slide  
46 on that.  
47  
48 DR. FERRIGNO: I have a specific slide on  
49  
50 MR. AJELLO: Right from there.  
51

1 DR. FERRIGNO: Right -- well, excuse me.  
2 I'll send an e-mail, but it can't be from here because  
3 we don't have a wireless. I wish it did. Well, I do,  
4 there.

5  
6  
7 So I've -- I would put them in this order.  
8 Still on the theme of contracts; metrics and contracts  
9 overlap in this case.

10  
11 The one that we talked about that I thought  
12 received some interest here was the connectivity of the  
13 performance measures to the contracts. So contracts  
14 for closure need more connectivity to the performance  
15 measures of the 16 criteria. Okay. So we need to look  
16 at that.

17  
18 The second metrics would be, maybe, the  
19 process and priority selection for accelerating clean-  
20 up choices. In other words, what is the process and  
21 selection criteria for the choices of acceleration, and  
22 we talked about that and we went in quite a bit on  
23 that.

24  
25 That's a separate one. That's one. Or  
26 whatever number it is.

27  
28 And then, the risk reduction, which is pretty  
29 accurately reflected in the recommendations that are on  
30 this sheet here. So the process for risk reduction,  
31 and obviously that plays very heavily into end state.

32  
33 Okay. And then the fourth one is -- it's not  
34 a very significant comment but it's some that I think  
35 based on the reception we received we may want to put  
36 it actionable, and that is to consider volume reduction  
37 efficiency of waste containerization and also safety  
38 compliance as a possibility of additional performance  
39 measures.

40  
41 I don't necessarily think that the Board  
42 would die for these things, but it's important. And  
43 because we did receive a fairly healthy response as far  
44 as issues that are -- they -- the EM wrestles with, I  
45 think we owe it to at least register here and then see  
46 where it tracks. So those would be the four items.

47  
48 MR. EVANS: Dennis, could you give me those  
49 again? It was volume?

50  
51 DR. FERRIGNO: Volume reduction -- volume

1 efficiency of the containerization, transport, et  
2 cetera. Packaging. And then the safety compliance to  
3 ISM.  
4

5  
6 Yeah, so in other words, if we were to adopt  
7 these additional performance measures, these measures  
8 would be monetized somehow in Jessie's report to  
9 Congress requesting funding. There may be money  
10 attached to it, may not. You know, that's really a  
11 programmatic decision, but it would be something that  
12 we would measure.  
13

14 Your turn.

15  
16 MS. ANDERSON: I didn't have -- I think  
17 you've captured them.  
18

19 DR. FERRIGNO: Okay.  
20

21 MS. ANDERSON: I was -- I was concerned that  
22 we'd be able to measure safety achievement.  
23

24 MR. AJELLO: Dennis, I'm sorry. I had to  
25 step out for a second. Did we capture this, what I  
26 call the other dimension of the metrics around the time  
27 value of money and the savings that the Department  
28 might be able to speak about?  
29

30 DR. FERRIGNO: That wasn't necessarily in  
31 metrics, okay.  
32

33 MR. AJELLO: Not a metric, okay.  
34

35 DR. FERRIGNO: The -- I think that's in the  
36 guidance that we had had, and maybe I was too quick to  
37 not comment on the Contracts side. But when we had  
38 that dialogue with Frank, okay, I noticed he was  
39 writing pretty quickly there. And that is, do you put  
40 some sort of an evaluation criteria for a mock-up on  
41 what would be the -  
42

43 MR. AJELLO: You call it a phantom?  
44

45 DR. FERRIGNO: -- time value.  
46

47 MR. AJELLO: Yeah.  
48

49 DR. FERRIGNO: Phantom if you want to call it  
50 that.  
51

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

MR. AJELLO: Right.

DR. FERRIGNO: You know, some sort of mock-up in the evaluation. But where it comes into effect is the life cycle.

MR. AJELLO: Right.

DR. FERRIGNO: In other words, the cost is the cost as far as what the clean-up is going to be. It is what it is. However, if we evaluate the speed of clean-up, then in the evaluation they might be able to compare one site's approach -- contractor's approach at a site versus another and look at this phantom capital employed or cost of money in that evaluation process to give it a full life cycle analysis.

MR. AJELLO: Let me see if I can -

DR. FERRIGNO: Do you agree with that, Dave?

MR. AJELLO: -- summarize and restate it so that we make sure we're -- we're getting it.

One of the evaluation criteria when -- when assessing which firm to choose is the schedule that they would use and to give them credit or not for accelerating the closure of the project or the completion of the project. So that -- that could be used under the Contracts area.

DR. FERRIGNO: Yeah. As a matter of fact, I guess we all have our different ways of doing something, but if I were to put the cost analysis together, you know, you would have your prescribed man hours, all that. That would come up with the metrics of building up from a work breakdown structure and your estimate of what it would take to do the work.

Then what one could do if capital employed rate of so-and-so, you know, with the model of this, and we could prescribe or somebody could prescribe the model, then you could apply that phantom capital employed just like we would do if we were doing an investor finance of a project.

MR. SWINDLE: Perhaps I -- again, there's different ways of looking at it, but if a business is going to a bank to basically capitalize its requirements for any pursuit, it's, you know, looking at it in the same way a commercial entity would do

1 that, is one of those parameters, that you do it from  
2 within the government evaluation process.  
3  
4 MR. AJELLO: So that when DOE is evaluating  
5 contractors, it not only would incentivize them with  
6 fees but actually use in the selection of that process  
7 Contractor A versus B and the speed in which he does it  
8 because you know that time is money, so to speak.  
9  
10 That's really -- so you're -- you're  
11 basically convincing me that should be under the  
12 Contracts area.  
13  
14 DR. FERRIGNO: Yeah, not only under the  
15 Contracts area, but it also now puts a monetized value  
16 to schedule.  
17  
18 MR. SWINDLE: Once defined from a contractual  
19 element, then it becomes a measurable metric whereby  
20 you there ensure the capability.  
21  
22 DR. FERRIGNO: I think what they're  
23 struggling with right now is they have a schedule but  
24 are they really perform -- are they really giving fee  
25 award to schedule or is it cost? I believe it's just  
26 to cost, okay. Now, all of a sudden, if I can monetize  
27 capital employed on the cost of money on an extra  
28 schedule, all of a sudden now I have a way to monetize  
29 that schedule increase or decrease and credit it to the  
30 cost evaluation.  
31  
32 MR. AJELLO: You know, I think this is really  
33 something because the contractor knows that the longer  
34 he stays on the job, the more it's going to cost him  
35 money. So I think that'll ring through the process if  
36 we -- if we use that as an evaluation criteria.  
37  
38 Good. Okay. Any others on Metrics? Just to  
39 be clear, we're going to take that last discussion and  
40 send it to the Contracts area, okay.  
41  
42 Yeah, End States is next.  
43 Dave.  
44  
45 MR. GEISER: I just stopped by to see if you  
46 need me for advice. If so, I'll stay. If not, I'll  
47 take off.  
48  
49 MR. WINSTON: Why don't you stay?  
50  
51 MR. GEISER: Okay.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

(Laughter)

MR. EVANS: Mr. Chairman, does that capture your discussion there?

MR. AJELLO: Yeah.

(Pause)

MR. AJELLO: Okay. We're back to End States.

MR. WINSTON: I'm not -- I'm not sure that the actionable items are quite the same for this project because, in a sense, we've been trying to comment on a train as it approaches the station. And so the train is getting to the station now and the question is -- is, you know, how do we help DOE assure that, you know, it's being as successful as it can based on the recommendations or the observations that we're giving.

It seems like the core of what we were recommending is that there would be adequate and meaningful public involvement, local government involvement, local government being at the table, regulator involvement, especially in the discussion of any discussions of variances and the like.

And as I said in my report, that's in the guidance and that's in the implementation strategy. It may not necessarily be -- be implemented to everyone's satisfaction, but it clearly is there.

Jessie talked about a process. She didn't really talk about the process, but she did say that -- that, you know, for example, some of the end state visions are going to be rejected, which at least in my mind means someone is looking at them corporate-wide and is making some judgment. And I guess I would just hope that part of that judgment is on the process that was used: if the process was interactive, collaborative, that there was adequate involvement that the documents were available in the way in which they were supposed to be. That would at least be part of the mix in addition to whether it was good science, whether was cost savings, and et cetera, et cetera.

So some of that just falls on Jessie and the Department. One of the reasons I was asking Dave to

1 stay is in the past I've been asking Dave, you know,  
2 who's going to be making these calls. And the answer I  
3 got from him, he said, well, it's not going to be me; I  
4 got another job with -- working for Mike Owen in Legacy  
5 Management.

6  
7 And I don't know if you have any new  
8 information in -- in terms of -- of, as a Hanford or a  
9 Savannah River does its risk-based end state vision,  
10 which will be saying yea or nay, in addition to  
11 regulators, in the public debate. Who and how.

12  
13 MR. GEISER: I can -- I can kind of explain  
14 the review process we've set up. I would say most  
15 sites did not have the opportunity to share or draft  
16 end state visions before they sent them into  
17 headquarters because the guidance was officially  
18 released on September 22nd and the documents were due  
19 October 31st.

20  
21 Most of the sites just barely completed  
22 putting the thing together and sending it in. But most  
23 sites that have sent it in have at least started the  
24 process of sharing their drafts with the communities  
25 and the regulators.

26  
27 We still have -- I think we got Ohio's today,  
28 and Idaho is not submitting until the end of December.  
29 And Portsmouth and Paducah haven't started. But the  
30 vast majority of the other sites have commenced and  
31 we've started a review.

32  
33 The review is broken into four teams. So we  
34 have a -- what we call a technical team, which is  
35 looking at how the clean-up strategy compares to what  
36 the end state says. And they're looking specifically  
37 at the conceptual site models and the viability of the  
38 remedies that are -- that are proposed.

39  
40 The second team is a risk team, and we've  
41 drawn on support from Crest and Argonne National  
42 Laboratory to review the risk components of the plans.

43  
44 The third team is land use, and we're using  
45 the Department's certified realty specialists, those  
46 guys that have legal jurisdiction over transfer of the  
47 Department's properties, to help us review the land use  
48 components and map elements.

49 And then the fourth is the legal regulatory  
50 team, which is looking at how the end states compare to  
51 existing agreements and/or, you know, federal laws and

1 regulations with -- with a special emphasis on the  
2 variance.

3  
4 So that's the four teams. And they're  
5 comprised of primarily EM headquarters federal  
6 employees, but we also have general counsel,  
7 management, budget and evaluation, and environment,  
8 safety, and health staff looking at it, in addition to  
9 the two contractor organizations that I mentioned.

10  
11 And our -- our goal is 30 days from the time  
12 that we receive the end state vision here to provide  
13 comments back to the site. I think Rocky Flats is  
14 going to come in on Monday of next week.

15  
16 So it's kind of been a staggered review  
17 because Pantex got theirs in a day early, October 30th,  
18 and then they've been trickling in over the last, you  
19 know, two and a half weeks, so. But we're trying to  
20 basically prepare a memo for Jessie's signature per  
21 site that says we have reviewed your draft and here's  
22 what we think about it. Here's how you need to  
23 correct it. And those comments will be the culmination  
24 of the four teams' efforts to review.

25  
26 In terms of transitioning the project, this  
27 has been -- this effort is being placed under Gene  
28 Smith's supervision, and he's the DAS for Environmental  
29 Clean-Up. And currently, I'm sharing the project lead,  
30 if you will, with John Loehr, who some of you may know.  
31 John has a lot of experience in DOE doing  
32 environmental work, and he -- he as well as most of the  
33 EM people on the review team will work for Gene and his  
34 part of the new EM organization.

35  
36 So there should be a nice getting up to speed  
37 process and then a transition to the new EM  
38 organization so that this can be implemented mainstream  
39 as opposed to outside of the project side.

40 I don't know if that helps.

41  
42 MR. WINSTON: That's very helpful. A lot of  
43 information in terms of -- of process. One of our  
44 concerns was that there wouldn't be a process. So if  
45 it's proposed, we'll throw it out there and see what  
46 happens. And obviously, I think we're interested in --  
47 in more leadership on the part of the Department in --

48 MS. SALISBURY: Could I just ask Dave a  
49 follow-up on the process itself? If you -- when you  
50 send it back after the review with Jessie's signature  
51 saying this -- we're reviewed this, these are the four

1 teams that have looked at it; this is what we think,  
2 then what?  
3  
4 MR. GEISER: So the teams, and I actually --  
5 forgot to mention two other groups that are looking at  
6 this, which is the National Focus Project Team, the  
7 small sites. They don't have -- they won't look at all  
8 of them; they'll only look at the sites that the  
9 National Focus Project was aimed at.

10  
11 And then, in addition, we have  
12 representatives from the program's secretarial officers  
13 who will take these sites from EM. For example,  
14 Lawrence Livermore National Laboratory and Los Alamos  
15 National Laboratory are owned by NNSA. So NNSA has a  
16 person reviewing the end state vision. And the Office  
17 of Science has someone reviewing the end state visions,  
18 and Nuclear Energy has someone. Those are the other  
19 two groups.

20  
21 The comments will be fairly specific, aimed  
22 back at the sites, ranging from, you know, purely  
23 administrative, which is you didn't follow the guidance  
24 and none of your maps are numbered correctly and you  
25 didn't have a contextual site model for this hazard  
26 area, to, you know, you -- what you in fact submitted  
27 was a regulatory-based end state, which is not  
28 necessarily the same as a risk-based end state. And so  
29 you simply provided an end state vision that was  
30 identical to what your record of decisions says or what  
31 your federal facility agreement will say. And it will  
32 -- it will provide direction to them as to how to  
33 correct what they submitted.

34  
35 Now, at the same time, the site will be  
36 getting input from regulators and the communities and  
37 the local governments and the tribes, and they'll be  
38 factoring those considerations in as well as the  
39 headquarters comments.

40  
41 MS. ANDERSON: Then they'll submit another  
42 document?

43  
44 MR. GEISER: Then they'll submit it in -- in,  
45 quote/unquote, "final form" by January 30th. And at  
46 that point, my guess is we will look at the final and  
47 either go back to the site and say, we still disagree  
48 with you and you need to continue to make changes until  
49 we accept it, or yeah, it looks good, and we're okay  
50 with -- with what you've submitted.

51

1           The policy calls for the concurrence by EM  
2 and the landlord CFO. So in that case, for Los Alamos,  
3 both NNSA and EM would have to concur that that end  
4 state is in compliance with the policy and the  
5 guidance. And if not, they'd have to go back and  
6 rework it.

7  
8           MR. WINSTON: Obviously, our committee has  
9 not had a chance to really digest this. I think one of  
10 the concerns that we might see is sort of this --  
11 there's a detailed review going on, and yet some of the  
12 fundamental aspects of the guidance may not have been  
13 followed in terms of interactive consultation with  
14 local governments, with regulators, the public, or  
15 whatever. So how that is all reconciled is -- is  
16 clearly of interest to us.

17  
18           Certainly, our hope would be that aspects of,  
19 you know, despite the timing of the guidance, I think  
20 we would like some assistance from headquarters in  
21 assessing whether the guidance had been followed and  
22 what corrective measures would be needed.

23  
24           Now, hopefully, you know, you talk about that  
25 there's -- there's exchange going on at the local level  
26 or whatever, but a lot of that is catch-up at this  
27 point. And it's going to be changing as there's -- as  
28 there's guidance coming back from headquarters. And  
29 you also have a situation where the headquarters is not  
30 necessarily going to be aware of the outgrowth of that  
31 public discussion and debate and local government and  
32 regulatory input.

33  
34           So it seems a little messy in terms of  
35 process as far as how, you know, how all of this is  
36 going to be, you know, coming together. I don't know  
37 how to -

38  
39           MR. AJELLO: But let me -

40  
41           MR. WINSTON: -- I think our committee might  
42 like to look at sort of how we can add, maybe, a little  
43 sanity to this.

44  
45  
46           MS. ANDERSON: Messy? I thought it was the  
47 cart before the horse.

48  
49           MS. SALISBURY: Yeah, exactly.

50  
51           MR. AJELLO: Let me -- let me give you an

1 example -  
2  
3 MS. ANDERSON: Maybe I'm misunderstanding  
4 what your end state -- or the components that -  
5  
6 MR. AJELLO: Lorraine? Sorry. You need the  
7 microphone.  
8  
9 MS. ANDERSON: Oh, I'm sorry.  
10  
11 MR. AJELLO: Could you just go back a second?  
12  
13 MS. ANDERSON: Oh, well, I think it sounds  
14 like the cart before the horse.  
15  
16 (Laughter)  
17  
18 MS. ANDERSON: But perhaps I'm  
19 misunderstanding what the vision of end state is and  
20 what components made up the final decision on that.  
21 And maybe I'm misunderstanding that.  
22  
23 MR. GEISER: Well, there's some -- I think  
24 there is some misunderstanding about what we are trying  
25 to achieve and potentially how we're going about it.  
26  
27 The risk-based end state, as stated in -- in  
28 the policy, is -- is an end state that is protective of  
29 human health and the environment or the land use that's  
30 projected. And that's -- that may not be the exact  
31 wording, but that's kind of what it is.  
32  
33 So if the projected land use is industrial,  
34 then you would use exposure scenarios that make sure  
35 that when you clean up, you are protective for  
36 industrial use for that -- that site. If -- if the  
37 land use is residential, then you should clean up to --  
38 to achieve exposure scenarios that are protective for  
39 residential use. And of course, you know, mostly what  
40 I've talked about is -- is human use, but the  
41 ecological aspects are also included in that.  
42  
43 Having said that, that does not mean that  
44 that risk-based end state agrees with -- record of  
45 decisions or commitments from federal facility  
46 agreements because, in a lot of cases, they won't and  
47 they shouldn't, from my perspective, because the record  
48 of decision or the federal facility agreement was  
49 something that was determined 10 or 15 years ago with  
50 almost no characterization data, does not reflect the  
51 clean-up that has been done, or changes in the land

1 use. And so people are hung up on commitments that  
2 were made 15 years ago based on little data and an  
3 inadequate depiction of where the site and the  
4 surrounding land was going.

5  
6 What we're seeing principally from  
7 stakeholders and regulators is the notion that because  
8 DOE said we were going to do X, Y, or Z, whether it's  
9 legally enforceable or not, any change that -- in this  
10 end state vision is by definition wrong. And we don't  
11 see it that way at all.

12  
13 It's clear in the policy that DOE will comply  
14 with laws and regulations. Having an end state vision  
15 that disagrees with the law does not allow us to pursue  
16 that end state vision, if we would be in violation of  
17 the law.

18  
19 So it should be clear that we intend to  
20 comply with laws and regulations. That does not mean  
21 the end state vision has to. It just means if we  
22 proceed down the path that we would violate a law or  
23 regulation, we would be in trouble, and we recognize  
24 that.

25  
26 So for example, the Hanford Advisory Board  
27 sent in comments on the risk-based end state saying,  
28 hey, you guys, the 100 Area, despite the fact that it's  
29 going to be recreational use, we all agreed that you  
30 guys were going to clean it up to residential use. In  
31 fact, potentially to the subsistence farmer scenario.  
32 And any backing off of cleaning it up to the  
33 subsistence farmer scenario is unacceptable to us and  
34 should not be in the risk-based end state.

35  
36 Well, my position is, it's designated  
37 recreational, and that, from a risk perspective, is  
38 what it should be cleaned up to, to protect human  
39 health and the environment for a recreational scenario  
40 for that area. And so I don't expect to get the  
41 Hanford Advisory Board's concurrence on the risk-based  
42 end state because they won't. And this is where  
43 they're coming from.

44 And it's -- and that's okay. You know, their  
45 comment is, DOE made a commitment to do X. And it's  
46 very different.

47  
48 So again, you know, the policy is clear, the  
49 guidance is clear. DOE will comply with laws and  
50 regulations. That does not mean that the risk-based  
51 end state is going to reflect that.

1  
2 MR. WINSTON: I don't want you to mistake our  
3 comments as -- as even speaking to the validity of the  
4 goal or a misunderstanding of the goal of the risk-  
5 based end state. Our effort has been trying to enhance  
6 the receptivity that is, frankly, low at this point.  
7 And I think our point is that the more we have a  
8 perception or a reality of cart before the horse, the  
9 more difficult it will be for us to partner.

10  
11 So our thought is, is that, we may want to  
12 talk amongst ourselves in terms of the -- of the timing  
13 of these issues on how the debate that's just starting  
14 at some sites is at least taken into account in -- in  
15 the ultimate decision on that because -- and it's  
16 sorted out. It may end up being a situation where  
17 you're saying, you know, that's interesting in terms of  
18 your perspective. Our perspective is different at  
19 least in finalizing this document, and then we can  
20 discuss where we go from here, whether any changes are  
21 warranted or not.

22  
23 But I think our thought was that -- that a  
24 lot of the things you put in the guidance, despite the  
25 timing of guidance that got finalized in September and  
26 a due date of October, moving -- moving forward without  
27 addressing the -- the almost cutting out of the public  
28 debate in the -- at least into the ultimate decision  
29 from headquarters or whatever is -- is a very -- no pun  
30 intended -- risky proposition.

31  
32 MS. SALISBURY: Dave, I just -- I want to  
33 reinforce what -- what Tom is saying. I think you  
34 really are risking a lot, especially since we all agree  
35 that a lot of this end state development should have  
36 been done 10 or 15 years ago, properly done. And  
37 you're not -- you're only giving it three or four  
38 months of -- of input and thought -- total.

39  
40 I mean, one thing that I wanted to ask you  
41 is, Jessie mentioned to us that she was in the process  
42 of going to -- she's going to turn down a lot of these  
43 documents and turn them back to the sites for further  
44 analysis. I'm curious if you can talk about why that  
45 is. Is it a process issue? They didn't understand  
46 your guidance and instructions? Incompleteness? What  
47 -- what is going on that -- that you're not able to  
48 accept the end state and they have to go back for  
49 further analysis and review?

50  
51 MR. GEISER: And we're -- I mean, my -- my

1 initial feedback to her was most sites submitted a  
2 regulatory-based end state. Didn't even address the  
3 risk element of it. Or some of them said, well, the  
4 regulations that we're following are risk-based and so  
5 the regulatory-based end state is a risk-based end  
6 state.

7  
8 And -- and so what we have is the same  
9 picture that we had before. In other words, all the  
10 sites said, I'm not going to upset my stakeholders or  
11 regulators. I'm just going to write down what they  
12 thought we were going to. You know, so that's what we  
13 got. I'd say that that's the vast majority of the  
14 submissions so far.

15  
16 And the few sites that showed us what they  
17 were going to submit beforehand and we told them that  
18 was going to be unacceptable, those are the ones that  
19 got delays and extensions, because they were concerned  
20 that, you know, if we submit something other than what  
21 we were planning on submitting, you know, to quote one  
22 site, it would be like throwing kerosene on the fire.

23  
24 So there are other problems as well. I don't  
25 want to limit it to just, you know, they didn't do a  
26 risk-based end state, they did a regulatory-based end  
27 state.

28  
29 I'd say overwhelmingly the sites did a very  
30 good job on the mapping aspect of the guidance. And so  
31 for the first time the Department has a relatively  
32 consistent map of the sites as they exist today and at  
33 the end state in terms of classification of the land,  
34 color schemes, icons, and identification of land use  
35 outside the fence line, which had -- which we generally  
36 did not have before, only inside the fence line.

37  
38 I would say that a number of the sites did a  
39 very good job on the conceptual site models. And some  
40 sites for the first time ever actually developed  
41  
42 Conceptual site models. So that was generally good as  
43 well.

44  
45 I think there were some aspects of the  
46 guidance that we did not articulate very well, and so  
47 there was some confusion by the sites as to what that  
48 meant. Some of them took the trouble to call us, and  
49 we clarified for them what we meant. And others did  
50 not and just interpret it their own way.

51

1           And then we also found some shortfalls in the  
2 guidance in that we really need -- and I think what  
3 we're going to recommend to Jessie -- is the addition  
4 of a few key tables that provide information that we  
5 hope to capture in a narrative method in a tabular  
6 form. That'll force sites to actually identify what  
7 the key contaminants are that drive the risk, what  
8 exposure scenarios they assume, and what assumptions  
9 they assumed along with those.

10  
11           That, we thought, was adequately covered in  
12 the guidance and should have been provided in narrative  
13 form. It was not, and so now we'll come back and say,  
14 submit it in tabular form so that it has to be fill-in-  
15 the-blanks as opposed to writing in prose. And filling  
16 in the blanks generally tends to give you more complete  
17 data than allowing someone to write in prose form.  
18 That'll allow an easier comparison from site to site.

19  
20           So I -- I would not say that it was a failure  
21 in this first round of drafts. I would say we gave  
22 them very little time to prepare these. In general,  
23 they followed the guidance in terms of the maps and the  
24 conceptual site models. But I would also say that they  
25 defaulted to the regulatory basis for the site  
26 closures. And in some cases that was fine, but in a  
27 lot of cases that's not correct. And so we will be  
28 providing feedback to the sites saying, you didn't  
29 follow the guidance or you misinterpreted it.

30  
31           And hopefully, over the next few months or  
32 so, two and a half months, they'll have time to work on  
33 these and improve them.

34  
35           MS. SALISBURY: Well, I'd like to reinforce,  
36 Mr. Chairman, based on what Dave's very honest comments  
37 to us have been, is the notion of meaningful dialogue  
38 with the stakeholders. Even if ultimately DOE says, we  
39 reject what you've said, but to have a meaningful  
40  
41 dialogue. I just can see this blowing up in DOE's  
42 face, collective faces.

#### 43                           **Additional Recommendations/Next Steps**

44  
45  
46           MR. AJELLO: Let me -- let me get us back to  
47 our topic and our agenda. Basically, we're trying to  
48 wrap up here. It is the topic of end states, but we're  
49 trying to wrap up in this session the actionable items  
50 that we're taking out of the reports that have been  
51 presented. I think we've had some good dialogue, but

1 we -  
2  
3 MR. WINSTON: This is good information.  
4  
5 MR. AJELLO: And it's good information.  
6 Information that's probably new, and -  
7 -  
8 MR. WINSTON: It doesn't necessarily relate  
9 to -  
10  
11 MR. AJELLO: Right. And so I would say the  
12 following, just to draw the two together. We have  
13 actionable items that have come out of the previously  
14 presented reports, and then I think as we go to the  
15 mechanic of putting together our total actionable items  
16 list, I gather from what we've been hearing that  
17 there's another topic, to say the least. So -  
18  
19 MR. WINSTON: Well, and one of our  
20 recommendations got to the specifics of the factors  
21 that DOE would consider as they were -  
22  
23 MR. AJELLO: Right.  
24  
25 MR. WINSTON: -- deciding how to proceed.  
26 And this is a lot more information on the process DOE  
27 will go through.  
28  
29 MR. AJELLO: Right.  
30  
31 MR. WINSTON: I had a couple other ones that  
32 were from this morning's discussion. Jessie mentioned  
33 in her opening remarks the possibility of a case study.  
34  
35 MR. AJELLO: Yes.  
36  
37 MR. WINSTON: Of this group doing one. We  
38 haven't talked about that. I'm not sure what would be  
39  
40 a good case study. She seemed to mention Hanford;  
41 that's a little large. But we -  
42  
43 MS. SALISBURY: Complicated.  
44  
45 MR. WINSTON: We should at least -- we should  
46 at least think about that, and I -- we tried to ask her  
47 what she might be looking for as part of that case  
48 study.  
49  
50 And then I think Jim had mentioned in his  
51 comments before that the impact on, I guess, the

1 interrelationship with some of the other things that  
2 are going on or parts of DOE. Dave addressed that to  
3 some degree by saying the landlord would be involved in  
4 commenting back.

5  
6 We had had that in our recommendation or at  
7 least one of our comments, that the impact on long-term  
8 stewardship obligations of any change in end state need  
9 to be factored in. We didn't necessarily think of NNSA  
10 as landlord or any -- but probably something we should  
11 -- we should at least discuss or take a look at as a  
12 committee.

13  
14 MR. AJELLO: Okay. Good. All right. So  
15 basically, the process that I would like to recommend  
16 us following going forward is that we'll have these  
17 lists typed up, presented to each of the committees for  
18 their work and wordsmithing, and then we'll put them  
19 together. And I'm not quite sure yet whether we will  
20 need to have another official meeting to adopt them or  
21 whether or not we can send them back as a memo to  
22 Jessie. We'll decide the -- the formalities of that  
23 later.

24  
25 I think the next step is to get these drafted  
26 up, each of the three teams, have them comfortable with  
27 those, and then we'll put them together into a -- into  
28 a plan.

29  
30 DR. FERRIGNO: Just one thought for you to  
31 consider, Mr. Chairman, since the Metrics Team is now a  
32 team of one.

33  
34 (Laughter)

35  
36 DR. FERRIGNO: Maybe you might want to  
37 consider having the Metrics Team join the Contracts  
38  
39 Team and that we could combine the recommendations of  
40 Metrics with Contracts.

41  
42 MR. AJELLO: That's fine. You know -

43  
44 DR. FERRIGNO: Would that be acceptable?

45  
46 (Laughter)

47  
48 PARTICIPANT: Are you a little lonely over  
49 there?

50  
51 MR. AJELLO: How do you really feel about it?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

(Laughter)

MR. AJELLO: We'll -- we'll be glad to -

DR. FERRIGNO: It's your choice.

MR. AJELLO: We'll be glad to adopt you. And don't forget, we have one other member of our Contract Team, John Quarles, who isn't here. So we'll -- we'll combine those two. That's a good point.

In fact, as a practical matter, some of these Metrics and Contract matters were overlapping in discussion today. It makes sense to do that.

MS. SALISBURY: Jim, could I just make sure from the audience that we've captured -

MR. AJELLO: Yes.

MS. SALISBURY: -- people's thinking so that if there is another actionable item that we ought to be considering -

MR. AJELLO: I heard one other from -- from Jim, and that was that there seemed to be an issue around getting a broad communication through the website in a clear fashion about these matters. And I didn't -- I stepped out for a moment, but I don't think I -- I got that out. And I think that's probably an action item on the end states.

MR. WINSTON: I mentioned it briefly just in terms of access to information under the -

MR. AJELLO: Yes.

MR. WINSTON: -- under the guise of -

MR. AJELLO: Okay.

MR. WINSTON: -- the public -- that was a specific -

**Public Comment Period**

MR. AJELLO: And then, just to repeat the question, is there anything else that anybody in the room felt that we've missed tabulating here in our discussion?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

(No response)

MR. AJELLO: Okay.

MR. GEISER: Permission to depart?

MR. AJELLO: Absolutely.

(Laughter)

MR. AJELLO: Do you want to step to the microphone?

MR. BRIDGMAN: Sorry. I'm not answering your question directly, but there's a piece of information I wanted to share that does impact the schedule because, you know, Congress just wrapped up the Energy Water Appropriation, and there's language in here that they say within 60 days of an enactment -- we're talking about the turn of the year -- they want DOE to come back with a review that reports -- where statutory changes are required to accelerate clean-up.

I mean, and -- and so, there's a big question here. Can -- can DOE do it that fast with the RBES schedule and the project, you know, management plan still out there waiting to be done. You know, perhaps this is them wanting to know, what are you going to request this coming year versus the long term. But nonetheless, you know, Congress has requested information because they got fairly upset with contractors coming up and suggesting regulatory changes.

And so, you know, this should factor into the DOE's, you know, figuring out, you know, how to sequence these, how soon to do this, and so on.

PARTICIPANT: (Off mike)

MR. BRIDGMAN: Jim Bridgman, ANA.

MR. WINSTON: And maybe I'll put Dave on the spot because that's a good question. But are -- are you envisioning statutory changes coming out of the RBES, you know, end state visions from the sites? I mean, there are some statutory changes that are already on, you know, are being proposed that didn't come out of RBES. But are you envisioning those coming out? I

1 mean, they could. I'm not saying they couldn't.  
2  
3 MR. GEISER: I mean, my -- and again, Gene  
4 Smith and John Loehr will be taking this on. But what  
5 I have proposed is that we use the risk-based end state  
6 document and particularly the variance analysis report  
7 to feed into the proposed -- any proposed changes to  
8 laws and/or regulations that DOE would need to support  
9 accelerated clean-up.  
10  
11 You know, having said that, I don't know what  
12 those are right now, only that I think personally that  
13 if we do the risk-based end state work directly, then  
14 we should have the comprehensive -- a comprehensive  
15 look at what we would want to propose in terms of  
16 changes. But honestly, I don't know what those are  
17 right now.  
18  
19 And I think Jim's got an excellent point, is  
20 that 60 days is a very short time frame. And so if you  
21 weren't doing risk-based end state, I'm not sure, you  
22 know, how you would come up with what Congress has  
23 asked us to do. But someone in EM would be working on  
24 it.  
25  
26 With the risk-based end states, it should  
27 serve as a tool to better inform that report and any  
28 subsequent -- subsequential legislative proposals.  
29  
30 MR. WINSTON: In any event, that due date is  
31 something we will be monitoring, and that's important.  
32  
33 MR. GEISER: And it's -- you know, it's --  
34 the timing is key because the president submits his '05  
35 budget probably in early February, and you know, when  
36 does the 60-day -- I think the 60 days starts with the  
37 approval of the appropriations or -  
38  
39 PARTICIPANT: (Off mike)  
40  
41 MR. GEISER: Okay. So, you know, 60 days  
42 from today or whatever is mid January. And so now  
43 headquarters can complain about having to work through  
44 Thanksgiving and the -- and the holidays as well as the  
45 sites complaining about having to work through it.  
46  
47 MR. AJELLO: Okay. Thanks very much.  
48  
49 MR. BRIDGMAN: Sorry. One other question,  
50 which is, they're going to be working through the  
51 holidays. The public is still going to want to respond

1 appropriately, you know. How are they going to be able  
2 to do that over the holidays as well?  
3

4 MR. AJELLO: Well, you know, it's -- it's  
5 certainly outside the scope of our group. We're  
6 advising the assistant secretary. But I think that's  
7 probably a communication they will take forward as far  
8 as its -- it's technically outside of what we're doing  
9 here, and certainly this committee won't be here in the  
10 holidays.

11 Okay. Thanks.

12 Next Meeting

13 MR. AJELLO: The next item on our agenda is  
14 the next meeting. And it simply falls to me to suggest  
15 that you look at your calendars going forward and come  
16 back to Jim Melillo's office with respect to your  
17 availability for a meeting.

18  
19 What we're anticipating is a -- is a late  
20 winter/early spring meeting in the March/April/May time  
21 frame. And what we're going to try to do is figure out  
22 the agenda for that meeting, including the possibility  
23 of this case study. So I think we need to assess how  
24 deeply we go into that before we might appoint the next  
25 meeting time.

26  
27 So if you can get back, I would say nominally  
28 speaking, sometime in the April, late April, time frame  
29 with respect to the possibility for a next meeting  
30 date.

31  
32 PARTICIPANT: Can we make it after the tax -

33  
34  
35 MR. AJELLO: After tax -- after the tax  
36 period, April 15th.

37  
38 PARTICIPANT: (Off mike)

39  
40 MR. AJELLO: You know, there are two weeks  
41 after Tax Day, after April -- in April, so I would just  
42 say let's get your suggestions, maybe e-mail them in to  
43 Jim and we'll try to figure out what -- what makes  
44 sense.

45  
46 MR. SWINDLE: I would suggest, I mean, given  
47 that the -- we've got a number of actionable items  
48 which I know we'll be communicating on from working in  
49 the committee level, that perhaps the EMAB staff in  
50 recognition of some of the events coming up -- I mean,  
51 clearly, just as we heard, some of these actionable

1 items probably need to feed into some of the budget  
2 issues -  
3  
4 MR. AJELLO: Right.  
5  
6 MR. SWINDLE: -- okay, that's going to come  
7 up in this -- you know, soon after the first of the  
8 year. If we're going to have a measurable impact, I  
9 suggest that the EMAB staff propose the dates, whether  
10 it's in that March time frame or it can wait until  
11 April. I mean, I don't think today any of us are in a  
12 position to see what's going to have the most impact  
13 and value to EM. And let us respond to a couple -- you  
14 know, to your suggested dates. I know, at least  
15 speaking for myself, to lock in my calendar now, it's  
16 easier to lock it in than to try and say nothing is  
17 there today, you know, from that standpoint. That you  
18 suggest, yeah.  
19  
20 MR. AJELLO: So you're saying, suggest a date  
21 right now?  
22  
23 MR. SWINDLE: Well, that the Board -- the  
24 staff come back with recommended dates.  
25  
26 PARTICIPANT: As the chairman, you can -  
27  
28 MR. SWINDLE: Then let us respond, yeah,  
29 because otherwise it's just -  
30  
31 MR. WINSTON: The other thing we don't want  
32 to do is turn in a schedule now and then have you, you  
33 know, not actually set up the meeting until January and  
34 by then our schedules have changed.  
35  
36 MR. SWINDLE: Yeah.  
37  
38 MR. WINSTON: There's always this tension  
39 between trying to get accurate information.  
40  
41 MR. MELILLO: Okay. I think maybe what might  
42 work better at this point is not to try and do it that  
43 way because the things that just came up are really  
44 things that were not going to have any -- any major  
45 impact on all the things like what we was just  
46 mentioned with David. I can't impact those.  
47  
48 We're better off, I think, at this point at  
49 just letting the calendars be done as they normally are  
50 done by you and sent back in terms of what the chairman  
51

1 already said. Do it late spring, sometime in April, as  
2 to your availability. That would be better.  
3  
4 I don't think we're going to tie into --  
5 matter of fact, I know we won't tie into the other one  
6 at all. There's nothing, I don't think, that we could  
7 come forward with. It's outside of us. It wouldn't  
8 impact us.  
9  
10 MR. SWINDLE: All right. Let us respond back  
11 to you.  
12  
13 MR. MELILLO: Yeah. Just your calendars that  
14 you already have in your package.  
15  
16 MR. AJELLO: For other planning purposes,  
17 once we put all this together, we'll be probably having  
18 some conference calls to finalize our lists on an  
19 individual team basis. So I think that'll probably be  
20 an event that'll occur before the next meeting.  
21  
22 MR. EVANS: Mr. Chairman, what we'll probably  
23 do is take the notes from those -  
24  
25 MR. AJELLO: Right. Good. That'll be great.  
26  
27 The other topic that is in your books is a  
28 survey that was presented to us -- it's actually in Tab  
29 8, at the very end of Tab 8 -- by Charlie Dan, a  
30 colleague of Frank Sheppard's in the Acquisition  
31 Management area.  
32  
33 This is a -- a survey that really gets to  
34 contractor perspectives on interacting with the  
35 program. And so Charlie's initial notion was to get  
36 the Board's viewpoint on this. And my sense, subject  
37 to this debate, is that we're probably not in the best  
38 shape -- we're probably not the best group to do that.  
39 And my suggestion would have been to use the EFCOG  
40 group, who are an association of 30 or 40 contractors  
41 who could speak with a broad perspective on these  
42 factors, some of which relate to the issues that we  
43 talked about in the Contracts Team, you know. What are  
44 the right factors to consider when you bid, or not bid  
45 as the case may be, et cetera, et cetera.  
46  
47 So my suggestion would have been to respond  
48 to Charlie by saying that we think that ought to be  
49 referred to EFCOG for their input because these are the  
50 items that the contractors can probably best respond to  
51 themselves.

1  
2           And I'd like to make that suggestion and hear  
3 from you on the topic.  
4

5           MR. SWINDLE: Just to add, I think -- and  
6 respond is, listening to Frank this morning, I mean,  
7 one of the key things that they're trying to do is look  
8 for improvements and to be effective. I mean, one of  
9 the things that you've got to get is as complete a  
10 coverage of the contracting community -- that is, the  
11 current contracting community -- that you know will get  
12 objective responses.  
13

14           EFCOG is -- we've seen the charter for the  
15 organization -- is to be in its own rights an objective  
16 voice for all of the members that do -- all the  
17 contractors that do work for DOE. And to reach out to  
18 them and request that they coordinate that would  
19 probably have a much higher response and the  
20 objectivity will, knowing that it's not going directly  
21 say to DOE, gives the chance at least to say that --  
22 ensure that their -- we can catalogue the responses and  
23 get some views that would have full attribution. And I  
24 think that's an important part, to give them that  
25 anonymity.  
26

27           MR. AJELLO: This -- this is a major issue,  
28 as we said this morning. Asking Contractor A or B for  
29 the answers to these kinds of questions is -- is a  
30 difficult and sensitive one. But asking for the -- for  
31 comments about, you know, these topics as a group  
32 without attributing to any one firm is probably going  
33 to be a much more successful outcome. So that's  
34 precisely why I suggested that.  
35

36           This is not a matter that we need to vote on  
37 per se, but I just in professional courtesy want to get  
38 back to Charlie and say to him, again, if it's our, you  
39 know, consensus that that's probably the right approach  
40 for this kind of survey.  
41

42           MR. SWINDLE: Since this is a procedural  
43 matter more than -- than an actionable -  
44

45           MR. AJELLO: Right.  
46

47           MR. SWINDLE: -- then I would -- I would  
48 firmly support that from a Board standpoint.  
49

50           MR. AJELLO: Yeah, yeah. One of the  
51 actionable items in Contracts that we've talked about

1 is making sure that there's a lot of dialogue between  
2 the contracting community and DOE, and -- and this is  
3 just one of those examples, I would say.  
4

5 MR. MELILLO: David, I wonder if maybe what  
6 we could -- I could just ask for at this point, I  
7 believe it was you earlier today when we started to  
8 talk about it. I thought we might also be able to at  
9 least as part of the recommendation going back to -- to  
10 at least recognize what we're talking -- that we  
11 understand what he's talking about here. You started  
12 to say before -- actually, it was Dennis -- that risk  
13 means -- has vastly different meanings depending upon  
14

15 MR. SWINDLE: Depending on which -  
16

17 MR. MELILLO: -- who you're talking to. If  
18 you're talking to the private sector, it has very  
19 unique meanings. You talk to DOE, it has another  
20 meaning.  
21

22 And I know what that's -- that's what he's  
23 looking for at this point. He's looking for some of  
24 that. But I wondered if we could at least just give  
25 him a little bit of indication that we recognize what  
26 he's talking about even though we -- we agree that it  
27 would be better served with a group like EFCOG. But I  
28 don't know whether that's something -  
29

30  
31 MR. SWINDLE: We can do that as part of the  
32 committee's quick response here. As an example, as you  
33 were saying, small businesses view risk differently  
34 than large businesses. And the regulatory. I mean, it  
35 has to be looked at in the four categories of, how does  
36 the public view risk, how does the contractor view  
37 risk, how does the regulators review risk, and then all  
38 four categories. We can do that as a response back -  
39

40 MR. MELILLO: Yes.  
41

42 MR. SWINDLE: -- from the committee.  
43

44 MR. MELILLO: Yeah. I can have just a little  
45 more detail -  
46

47 MR. SWINDLE: Yes,.  
48

49 MR. MELILLO: -- to go with it, and that way  
50 they're -- it would make -- it would help him out, I  
51 think, a bit more.

1  
2 DR. FERRIGNO: But this would not be an  
3 official response from EMAB. It would just be the  
4 committee's opinion.

5  
6 MR. MELILLO: It would be the committee's  
7 opinion.

8  
9 MR. SWINDLE: We're not answering the survey.

10  
11 DR. FERRIGNO: Right.

12  
13 MR. MELILLO: We're not answering it per se,  
14 right. Right. We're offering up just whatever we do  
15 know -

16  
17 DR. FERRIGNO: It would be off the record.

18  
19 MR. MELILLO: No, no.

20  
21 DR. FERRIGNO: It would be on the record?

22  
23 MR. MELILLO: Yeah, I'll keep it on the  
24 record and I'll put it in with the final package, the  
25 things that we send up to Jessie at this point.

26  
27 DR. FERRIGNO: But including our answer to  
28 Charlie?

29  
30 MR. MELILLO: Including what -- the  
31 conclusion you've just arrived at and whatever opinions  
32 they have at this point. That's all.

33  
34 MR. SWINDLE: But not complete the survey.

35  
36 MR. MELILLO: But not complete the survey,  
37 no. No. That's correct.

38  
39 **Public Comment Period**

40  
41 MR. AJELLO: Okay. At this part in the  
42 program, we've got -- the agenda, we've got some  
43 additional time allocated for further public comments.

44  
45 Is -- is there any additional commentary from  
46 the public?

47  
48 (No response)

49  
50 MR. AJELLO: No. Okay. Well, let me just  
51 say a few words before we adjourn and wrap up today.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

First of all, I want to recognize all of the good work that Ray Loehr and John Moran have done over the years for this program. They've been associated for quite some time, and they've really done an excellent job. And as we said up front this morning, they have resigned from the Board, but we've got three new very capable members of the Board so I feel that we're in good shape going forward.

The other thing I'd like to acknowledge is Michelle Ashley, who's moving on. And she has been terrific for us and this program in providing all of the requisite information that we need to be informed and to do things that we -- we must do on a day-to-day basis.

So we want to acknowledge your support and wish you good luck.

(Applause)

MR. AJELLO: Is there any other business for the Board?

(No response)

MR. AJELLO: We're adjourned.  
(Whereupon, at 4:25 p.m., the proceedings were concluded.)